1) Do you agree with the outcomes intended as a result of our policy detailed in paragraph 2.4?

We agree with the desired customer outcomes set out in the consultation document; however, as outlined in our consultation response dated 17 December, we feel our existing processes already meet many of the aims. Moreover, we consider the proposals run the risk of doing more harm than good on account of the detrimental unintended outcomes outlined in question 3 of this response which are over and above those acknowledged by Ofgem sections 2.47 – 2.50. We believe that, during the productive workshop Ofgem hosted on 20 October, suppliers presented clear support for the intended outcomes whilst articulating alternative approaches to better deliver these outcomes. As such we urge Ofgem to fundamentally rethink proposals and we are fully committed to supporting this process.

We consider that the existing regulatory framework goes a long way to deliver the desired outcomes. More targeted steps to strengthen this framework could ensure the intended outcomes and give greater assurance to Ofgem and other stakeholders, without risking the unintended consequences that undermine these proposals. Potential steps could include more explicit requirements for warrant fees to be cost reflective and greater transparency and consistency achieved by requiring suppliers to share their calculations, for instance as part of Social Obligations Reporting. Closer monitoring mechanisms and appropriate requirements could ensure suppliers always take all reasonable steps before going to warrant. Further steps could be taken to address suppliers with the highest costs or where Ofgem has concerns around suppliers going to warrant too quickly.

2) Do you agree with our preferred option as detailed in paragraphs 2.8 to 2.11?

No. The Electricity Act 1989 gives suppliers a right to recover any expenses following non-payment of charges to install a Prepayment meter. The proposals detailed in paragraph 2.8 run counter to these rights, therefore we request clarity on the legal basis for the cap and prohibition within the existing framework of primary legislation. For this consultation to move forwards with consensus it is critical Ofgem are forthcoming on this point.

We annually review our warrant charges to ensure they remain cost reflective. The level of cap proposed is well below cost level to us and would therefore result in significant socialisation of costs. The cap level proposed appears arbitrary in that it has not been shown to fairly reflect the costs suppliers can reasonably be expected to incur. We take all reasonable steps to engage with customers prior to warrant stage which includes outbound activity through a range of channels, signposting to support organisations and Debt Resolution Visits to a property. Setting aside customers whose vulnerability creates barriers to engagement as they are protected by the proposed prohibition, we consider there is an obligation for customers to engage with their supplier in regards to a debt balance: as discussed we take proactive steps to help facilitate this. We believe it is fairer to apply costs to a customer who has not engaged despite all reasonable steps

rather than to socialise costs across the broader customer base, which inevitably includes those vulnerable customers who are paying their bills. A number of factors including density of customers in regions will lead to differences in costs between suppliers, for example warrant activity is likely to entail greater costs for a smaller supplier with a low density of customers. For these reasons we do not consider a cap to be the most appropriate method of achieving the intended outcomes. However, if a cap is to be implemented, setting this at, or closer to, typical cost levels would help to mitigate the impact of socialised costs.

Any proposals implemented needs to recognise that there must also be some onus on customers to cooperate in the engagement process, including via third parties where they do not feel able to engage directly. Installing a prepayment meter (**"PPM"**) on a warrant is excluding disconnection, the last resort for a supplier, and this would only happen where a customer does not engage or adhere to an agreed affordable payment plan. One issue with the prohibition is that, despite all reasonable steps, there are some customers who do not engage before warrant stage and who indeed may not be present on warrant execution. If a supplier is unable to engage with a customer it is not possible to identify vulnerability, less still assess its implications. We do not consider the prohibition as drafted to be practicable for suppliers to implement and moreover we consider it unsuitable due to the unintended consequences discussed in question 3.

There are a number of issues with the drafting of the licence conditions in the form outlined in Appendix 1 of the consultation document. The crux of this issues centre on lack of clarity and imprecision in the concepts employed:

- "severely traumatic" - this is subjective and in practice it would be very difficult for suppliers to make a qualified assessment on whether a potential future warrant process would prove to be a severely traumatic experience for an individual customer.
- How can suppliers be expected to accurately determine whether vulnerability has driven a lack of engagement or other factors?
- "severe financial vulnerability" – it's reasonable to expect many customers that are not paying their bills to have some degree of financial vulnerability so to distinguish what is 'severe' would require robust validation of financial circumstances; again very difficult to implement in practice where there can be low levels of engagement and some customers are reluctant to discuss financial circumstances in detail with their supplier, even via a suitable third party

The concept of "Mental Health issues" raised within the discussion of relevant vulnerable situations in the consultation appears too broad. Whilst there is some categorisation in 2.23, the concept of mental capacity needs to be introduced to target this protection at the relevant groups

Ofgem should bear in mind that all judgements made by suppliers can only be based on the sometimes limited information available, often constrained by the limited customer engagement.

The subjectivity of all the concepts embedded within the proposals means it is unclear as to the precise expectation on suppliers, this may result in inconsistency and resulting unintended outcomes.

3) Do you have views on any further unintended outcomes which could be realised in addition to the risks outlined in paragraphs 2.47-2.50?

Applying for a warrant is typically a last resort after all other avenues to recover a debt have been exhausted. E.ON does not always fully recover the full debt including warrant charges and individual circumstances are taken into account. As we do not recover all our costs all of the time, there is already a strong incentive for us not to undertake warrant related activity wherever possible and therefore we challenge the premise that the impact of capping and prohibiting warrant charges will create any additional incentives to avoid warrants.

On the other hand, an unintended consequence may be that the proposals serve to reduce or remove the incentive for customers to engage prior to a warrant application and enforcement. The broad nature of the relevant vulnerable situations discussed in the consultation and embedded in the draft conditions risk exploitation by some customers as a means to avoid any charges. This may result in some suppliers requiring customers to provide evidence before formally assigning vulnerability to their account; this could create a situation where customers find the onus of providing evidence off putting and therefore do not declare their vulnerability at all; thus risking them not receiving the support they need.

Another potential consequence is where suppliers are prohibited from installing a PPM and the customer has not engaged to resolve the debt by other means. Without a PPM in place, the debt could continue to increase, all the while becoming progressively more difficult to manage. Also, as various suppliers share data with credit reference agencies, the profile of non-paying customers who would otherwise have had a PPM fitted but instead remain in arrears will be impacted carrying consequences for other credit sources.

Ultimately suppliers will experience increased bad debt costs that would need to be socialised. The additional consequences listed above could be far greater than those acknowledged in section 2.47. We urge Ofgem to consider implications highlighted by the water industry where socialised bad debt costs are materially impacting bills; as typical energy bills are greater than water bills, if they were to increase by a similar proportion the actual financial impact to customers would be greater.

4) Do you agree that the cap should be applied when the warrant process is not completed and that no further detail is necessary? (See paragraph 2.55)

If a cap is to be applied it yes it would logically follow that this should apply even where the process is not completed. Important however, there should be provision for case by case exemptions in circumstances where a customer deliberately prevents the successful

execution of a warrant, for example by placing obstacles in place to prevent access to the meter. It seems reasonable that suppliers should be able to recover all their costs in such scenarios.

5) ***Do you agree with the proposal for a new debt path proportionality principle (as detailed in paragraphs 2.59 to 2.66), in that this would not be limited to warrant activities and would require costs and actions relating to ALL debt recovery activities (including transfer objections) to be proportionate? Do you have any views on unintended consequences of this broad scope?***

We consider that our current approach to debt recovery, both in terms of warrant related action and other activity and charges to be generally proportionate.

There may be a case that a revised version of the proportionality principle, alongside other targeted measures, could deliver the desired outcomes thus eliminating the need for the cap and prohibition proposals with the inherent risks they pose. We would be happy to contribute further to any discussions if this was considered.

We do feel however, that there is again a lack of clarity with the current drafting. The term “proportionality” itself is too vague and should therefore be defined. Alternatively the licence condition could be worded differently to more clearly convey the intent without opening up the likelihood of inconsistent interpretation. There should be clarity on whether or not suppliers are expected to anticipate potential externally driven costs within the remit of applying this principle. An example would be if a supplier takes litigation action concerning non-payment of bills. The precise costs to the customer in relation to this process would be difficult to anticipate because they can vary significantly depending on, for instance, whether the customer elects to defend the action. The costs are also determined by the courts in relation to relevant legislation and many of the costs are directly applied by the courts or enforcement officers. For these reasons and given that judgements reflect customers’ ability to pay it should be clarified that such costs are not in scope of the principle.

The term “original debt amount” is unsuitable as it incorrectly assumes a static value throughout a customer debt journey. In practice, collections activity will commence following non-payment of a bill with the sending of a reminder. Where customers do not engage the debt collection process progresses, during which time further bills are issues and the debt balance continues to increase, often significantly by the point of warrant activity. The pertinent consideration within this license condition should the debt balance at the point of the activity concerned, providing the relevant bill reminders have been sent, not the original balance.

More generally any firm restrictions around the amount of the debt balance at any particular point in the debt recovery activity could, in practice, require minimum balance thresholds to be hard coded in place within debt journeys. A negative impact of this could be increased customer balances prior to certain supplier interventions, which could lead to less manageable levels of debt.

6) Do you agree with our definition of "under warrant" to mean a warrant that would authorise the installation of a PPM. Do you have any views on unintended consequences of this narrow scope?

We agree that the scope of the proposals should be restricted to activity in relation to obtaining and enforcement of warrant.