

# Prepayment meters installed under warrant - statutory consultation

## Consultation

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### Overview:

This statutory consultation confirms our proposals for measures to protect domestic consumers in the process of having prepayment meters (PPMs) force-fitted under warrant for debt recovery purposes.

We don't want any consumers to face disproportionate or inappropriate actions or charges throughout the debt recovery process, and believe that consumers in vulnerable situations need specific protections against warrant usage and charges.

Our September 2016 consultation *Prepayment Meters installed under warrant – final proposals* explained how we proposed implementing these protections. It included draft licence conditions and a draft Impact Assessment.

We have considered the responses to our September 2016 consultation. We now seek your views on the revised proposals and draft licence conditions in this statutory consultation. Subject to reviewing the responses to this consultation, we expect to publish licence modification decision notices later this year and propose that licence changes take effect 56 days after publishing the notices.

## Context

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Our Consumer Vulnerability Strategy (2013) sets out Ofgem's approach to identifying and tackling consumer vulnerability in the energy markets. It identified prepayment meter (PPM) customers as a key area of focus.

In December 2015, we published initial proposals to improve outcomes for PPM consumers in a number of areas, including where warrants are used. In September 2016, we published a policy consultation outlining detailed proposals to protect consumers who have PPMs force-fitted under warrant for debt recovery purposes.

PPMs were also a focus for the Competition and Markets Authority's (CMA's) recent review of the energy market. Their review identified weaker competition in the prepayment sector compared to the rest of the market. Following this review, the CMA and Ofgem implemented a number of measures designed to improve outcomes for PPM consumers, including introducing a price cap on PPM tariffs in February 2017 and overseeing changes to the process for indebted PPM customer switching. The proposals in this document complement these measures and are designed to further improve outcomes for PPM consumers, especially those in vulnerable situations.

## Associated documents

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Consumer Vulnerability Strategy (2013) and Progress Report (2015)

<https://www.ofgem.gov.uk/publications-and-updates/consumer-vulnerability-strategy>

<https://www.ofgem.gov.uk/publications-and-updates/consumer-vulnerability-strategy-progress-report>

Prepayment review: understanding supplier charging practices and barriers to Switching (June 2015)

<https://www.ofgem.gov.uk/publications-and-updates/prepayment-review-understanding-supplier-charging-practices-and-barriers-switching>

Initial policy consultation - Proposals to improve outcomes for prepayment customers (December 2015)

<https://www.ofgem.gov.uk/publications-and-updates/proposals-improve-outcomes-prepayment-customers>

Prepayment meters installed under warrant – final proposals (September 2016)

[https://www.ofgem.gov.uk/system/files/docs/2016/09/final\\_proposals\\_consultation\\_document.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/09/final_proposals_consultation_document.pdf)

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## Executive Summary

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Protecting consumers in vulnerable situations and facilitating fair consumer outcomes is a key priority for Ofgem. Prepayment meter (PPM) customers are more likely to be vulnerable and fuel poor. These customers are a focus for our work, especially where consumers have PPMs force-fitted under warrant to recover debt. This statutory consultation proposes introducing a new obligation through a supply licence condition to protect consumers in these circumstances, with an additional clause to improve protections for all consumers in the debt recovery process.

We are proposing this action because we are concerned about failures to identify vulnerability during the warrant application and execution process resulting in some consumers in vulnerable situations suffering traumatic experiences. We are also concerned about suppliers' approaches to charging for warrant-related costs when vulnerability is present, particularly where customers' ability to engage with their supplier is impaired due to their vulnerability or where they are already in severe financial difficulty. We think suppliers' current approaches in these cases can lead to unfair treatment and the exacerbation of already severe financial vulnerability.

We are also concerned about the level and consistency of warrant-related charges for all consumers, with different suppliers charging a wide range of amounts for conducting the same process and in some cases, levying excessively high charges. We want suppliers to act in a proportionate manner when they recover debt, both when they seek to use a warrant and more broadly.

We believe that these issues can cause significant detriment to consumers in each individual case. We think that warrants are being used too readily and that suppliers can do more to identify alternative, less invasive and less costly debt recovery methods.

We think that existing rules and voluntary arrangements do not sufficiently cover the issues we have identified nor sufficiently incentivise suppliers to adjust their approaches. On this basis, we believe that new obligations and incentives need to be implemented. We would like suppliers to shift their focus to ensuring every effort is made to engage fully with customers in the debt path, improving their conduct, and only force-fit PPMs as a last resort.

### **Our proposals**

#### *A prohibition on suppliers using warrants in certain exceptional cases*

The intended effect of this prohibition is that customers do not suffer the trauma of the force-fitting experience, which they might otherwise endure due to their mental capacity and/or psychological state. This measure will also have the effect of directing suppliers to pursue other, more suitable debt recovery methods.

*A prohibition on suppliers levying warrant-related costs in certain other cases*

The intended effect of this prohibition is that customers who were impaired from engaging with their supplier during the debt recovery process due to a vulnerability are not unfairly charged; and that customers who are already in severe financial difficulty will not have this situation exacerbated by facing additional warrant-related costs. This measure should also incentivise suppliers to pursue other, more suitable debt recovery methods given that they will not be able to recover any warrant-related costs in these instances.

*Capping the amount that suppliers can levy for warrant-related costs in all other cases where a warrant is used to force-fit a PPM to £150.*

The cap is designed to incentivise suppliers to use alternative debt recovery methods and to only use warrants as a last resort. By setting the cap at £150, we are proposing setting it at a level below that of the indicative cost of warrant application and execution (£210). The intention is to reduce the use of warrants and encourages greater engagement with indebted consumers by suppliers because they will only be able to recover some warrant-related costs if they pursue this debt recovery option.

Another intended effect of the cap is that all consumers will be protected from facing disproportionate costs where a warrant is used, and will be clear on the maximum amount they may be charged if a warrant is used.

*Introducing a proportionality principle, covering costs and actions of suppliers, for all customers in the debt recovery process.*

The intended effect of this measure is to ensure that suppliers take actions and levy charges that are proportionate in all cases where they seek to recover debt from consumers. In this instance, we are proposing using a principles-based approach as the most effective way to drive improved customer service across a broad range of actions.

We also propose including a 'sunset clause'. This clause will mean that the rules relating purely to warrant-related activities will cease to apply at the expected end-date for smart meter rollout (31 December 2020). The rollout of smart meters will reduce the need for the physical installation of PPMs using a warrant to force entry into a property, because a smart meter can be switched to PPM mode remotely. This will reduce the need for regulation in this area.

## **Next steps**

We welcome views on the revised proposals and draft licence conditions set out in this statutory consultation. Please respond to [prepayment@ofgem.gov.uk](mailto:prepayment@ofgem.gov.uk) by close of business on **29 August 2017**. Subject to reviewing responses, we envisage publishing licence modification decision notices later this year with licence changes taking effect 56 days after the publication of the decision notices.

# 1. Background

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## Chapter Summary

In September 2016, we consulted on our final proposals for improving protections for customers who have a PPM force-fitted under warrant for debt recovery purposes. In this chapter, we summarise the policy development and evidence gathering process we have undertaken, our rationale for intervention, the key features of our proposals and their intended effects, our assessment of impacts and next steps.

## Policy development and evidence gathering process

1.1. In June 2015, we published our report '*Prepayment review: understanding supplier charging practices and barriers to switching*'.<sup>1</sup> In this report, we said that most suppliers charge consumers for warrant-related costs, and that these costs could be considerably more than the original debt owed by the customer. The evidence we gathered at that time suggested that warrant-related costs ranged between £75-£566 and could include court costs, warrant application costs and costs for dog handlers and locksmiths.

1.2. In December 2015 we built on our initial findings and consulted on initial proposals to improve consumer outcomes in situations where warrants are used to force-fit PPMs.<sup>2</sup>

1.3. In May 2016 we issued a Request for Information to suppliers to gather detailed quantitative evidence about suppliers' practices and costs when using warrants to force-fit PPMs. This was added to the evidence we gathered from our December 2015 consultation.

1.4. In September 2016, we consulted on revised proposals, including draft licence conditions. We published a draft Impact Assessment (IA) alongside our proposals.

1.5. In this statutory consultation, we set out updated proposals accounting for responses to our September 2016 consultation, including revised draft licence conditions and an updated IA.

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<sup>1</sup> Prepayment Review: understanding supplier charging practices and barriers to switching: [https://www.ofgem.gov.uk/sites/default/files/docs/2015/06/prepayment\\_report\\_june\\_2015\\_finalforpublication.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2015/06/prepayment_report_june_2015_finalforpublication.pdf)

<sup>2</sup> Initial policy consultation - Proposals to improve outcomes for prepayment customers (December 2015) <https://www.ofgem.gov.uk/publications-and-updates/proposals-improve-outcomes-prepayment-customers>

*The Scottish Justices Association*

1.6. We have recently received representations from the Scottish Justices Association<sup>3</sup> regarding the use of warrants by suppliers. The association has written to us raising a range of concerns regarding suppliers' practices when applying for warrants to force-fit PPMs for debt recovery purposes in Scotland. Their letter to Ofgem is published alongside this document.

1.7. The association is concerned that in some cases suppliers appear to be applying for warrants too readily when the amount of debt owed by the customer is relatively small. They have also raised concerns about the lack of information provided by some suppliers on their warrant applications and in particular, a lack of information concerning vulnerability.

1.8. We have consulted with the equivalent association in England and Wales (the Magistrates Association) to determine the prevalence of these issues in other regions. While the picture appears most concerning in Scotland compared to England and Wales, the MA has reported a substantial minority of their branches also encountering issues with warrant applications. They have reported, for example, a lack of information about customer circumstances being provided on some applications.

1.9. In light of the concerns raised, we will liaise with Energy UK, the trade body representing many domestic suppliers, to propose that they work with the associations with a view to potentially agreeing standardised warrant application processes and templates to improve the application process.

## **Rationale for intervention**

1.10. We are concerned about failures to identify vulnerability during the warrant application and execution process. We know that failures in this area can result in some consumers in vulnerable situations suffering traumatic experiences.

1.11. We are concerned about suppliers' approaches to charging for warrant-related costs when vulnerability is present. We are particularly concerned about this where customers' ability to engage with their supplier is impaired due to their vulnerability or where they are already in severe financial difficulty. We think suppliers' current approaches in these cases can lead to unfair treatment and the exacerbation of already severe financial vulnerability.

1.12. We are also concerned about the level and consistency of warrant-related charges for all consumers. We have found that different suppliers charge a wide range of amounts for conducting the same process and in some case, levy

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<sup>3</sup> The Scottish Justices Association is the national executive body which represents over 400 Justices of the Peace in Scotland.



excessively high charges. We want suppliers to act in a proportionate manner when they recover debt, both when they seek to use a warrant and more broadly.

1.13. We think that these issues can cause significant detriment to consumers in each individual case. We believe that warrants are being used too readily and that suppliers can do more to identify alternative, less invasive and less costly debt recovery methods. Existing rules and voluntary arrangements do not sufficiently cover the issues we have identified nor sufficiently incentivise suppliers to adjust their approaches. On this basis, we believe that new obligations and incentives need to be implemented.

## Key features of our proposals and their intended effects

1.14. We propose implementing a combination of prescriptive and principles-based rules. For specific actions and in a number of limited scenarios, where we think there is a significant risk that a principles-based approach may leave consumers exposed to detriment or where we are seeking to achieve a very specific outcome, we propose using prescriptive rules. Elsewhere we propose using principles, placing the onus on suppliers to select the action or actions that will lead to the most appropriate consumer outcomes.

1.15. We propose **prohibiting suppliers from using warrants in certain exceptional cases**. The intended effect of this prohibition is that customers do not suffer the trauma of the force-fitting experience, which they might otherwise endure due to their mental capacity and/or psychological state. This measure will also have the effect of directing suppliers to pursue other, more suitable debt recovery methods.

1.16. We propose **prohibiting suppliers from levying warrant-related costs in certain other cases**. The intended effect of this prohibition is that customers who were impaired from engaging with their supplier during the debt recovery process due to a vulnerability are not unfairly charged; and that customers who are already in severe financial difficulty will not have this situation exacerbated by facing additional warrant-related costs. This measure should also incentivise suppliers to pursue other, more suitable debt recovery methods given that they will not be able to recover any warrant-related costs in these instances.

1.17. We propose **capping the amount that suppliers can levy for warrant-related costs in all other cases** where a warrant is used to force-fit a PPM to £150.

1.18. The cap is designed to incentivise suppliers to use alternative debt recovery methods and to only use warrants as a last resort. By proposing setting the cap at £150, we are proposing setting it at a level below that of the indicative cost of warrant application and execution (£210).<sup>4</sup> The intention is to reduce the use of

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<sup>4</sup> As set out in our Impact Assessment, through our May 2016 RFI we collected data on unit costs for warrant applications and executions. To establish an indicative cost of warrant

warrants and encourages greater engagement with indebted consumers by suppliers because they will only be able to recover some of the warrant-related costs if they pursue this debt recovery option.

1.19. Another intended effect of the cap is that all consumers will be protected from facing disproportionate costs where a warrant is used, and will be clear on the maximum amount they may be charged if a warrant is used.

1.20. We propose introducing a **principle of proportionality, covering costs and actions of suppliers, for all customers in the debt recovery process**. The intended effect of this measure is to ensure that suppliers take actions and levy costs that are proportionate in all cases where they seek to recover debt from consumers.

## Impact Assessment

1.21. We published a draft Impact Assessment (IA) alongside our September 2016 consultation to seek further comments and evidence from stakeholders. The IA identified a range of impacts, costings and our preferred approach.

1.22. We have published an updated IA alongside this consultation. This IA accounts for stakeholder responses to our September 2016 consultation and revised costings based on our proposal to set the cap on warrant-related charges at £150.

## Next steps

1.23. We welcome views on the revised proposals and draft licence conditions set out in this statutory consultation. Please respond to [prepayment@ofgem.gov.uk](mailto:prepayment@ofgem.gov.uk) by close of business on **29 August 2017**. Subject to reviewing responses, we envisage publishing licence modification decision notices later this year with licence changes taking effect 56 days after the publication of the decision notices.

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activities for single fuels we have taken the minimum cost of each stage ignoring outliers. For the warrant application stage this is around £50 and for the warrant execution stage this is around £160. A combination of both stages suggests an indicative cost of around £210

## 2. Prohibition

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### Chapter Summary

In our September 2016 consultation, we proposed prohibiting suppliers from using a warrant to force-fit a PPM to recover debt where taking this action would result in a severely traumatic experience for the customer. We also proposed prohibiting suppliers from charging for warrant-related costs where a specific set of vulnerability indicators were present. This chapter recaps on the issues we identified and proposals we set out in our September 2016 consultation, summarises consultation respondents' views on our proposals, and sets out our revised proposals.

### The issues we identified

2.1. In our September 2016 consultation, we highlighted failures to identify vulnerability during the warrant application and execution process. We also identified inconsistencies in suppliers' approaches to charging for warrant-related costs when relevant vulnerabilities were discovered.

2.2. We identified three specific categories where these failures and inconsistencies were resulting in particular consumer detriment:

- Where a consumer's vulnerability makes the practical execution of a warrant (a supplier or their Representative physically entering a consumer's home to force-fit a PPM) an especially traumatic experience for the customer.
- Where a consumer's impaired ability to engage with their supplier in advance of the warrant process due to their vulnerability is not accounted for when warrant-related charges are levied, resulting in them being charged unfairly.
- Where a consumer's existing severe financial vulnerability is not accounted for when warrant-related costs are levied, leading to the customer's severe financial vulnerability being exacerbated.

2.3. We set out the practical implications these failures could have for consumers, for example:<sup>5</sup>

- An extended period of vulnerability with potential knock-on effects
- Mental health problems<sup>6</sup>

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<sup>5</sup> FCA research: <https://www.fca.org.uk/publication/research/consumer-credit-customers-vulnerable-circumstances.pdf>

<sup>6</sup> Research by Money and Mental Health reports: 86% of respondents said their financial situation had made their mental health problems worse.  
<http://www.moneyandmentalhealth.org/wp-content/uploads/2016/06/Money-on-your-mind-full-report.pdf>

- Consumers caught in a debt spiral<sup>7</sup>
- Over-borrowing and falling into the debt trap<sup>8</sup>
- Unemployment

## September 2016 consultation proposals

2.4. We proposed prohibiting suppliers from using a warrant to force-fit a PPM where the process of installing a PPM under warrant would be severely traumatic for the consumer due to a vulnerability. We indicated that these circumstances would likely be exceptional.

2.5. We also proposed prohibiting suppliers from charging for warrant-related costs where either the consumer's vulnerability had significantly impaired their ability to engage with the supplier, or where the charges would exacerbate existing severe financial vulnerability.

2.6. We provided illustrative examples and case studies of specific situations that would be covered by these prohibitions.<sup>9</sup>

2.7. Our proposals also included a 'sunset clause'. This clause would mean that the prohibitions would cease to apply at the expected end-date for smart meter rollout (31 December 2020). We explained how the rollout of smart meters would ultimately remove the need for the physical installation of PPMs using a warrant to force entry to premises, because a smart meter can be switched to PPM mode remotely. This would reduce the need for regulation in this area. The draft licence conditions provide for the sunset date to be changed on provision of a written statement from Ofgem.

## Summary of consultation responses

### Prohibition on installation where it would be severely traumatic

2.8. Consumer groups were unanimously in favour of this proposal reiterating that situations of forcefully installing a PPM can cause severe trauma to the consumer. Suppliers primarily focused on the perceived negative consequences from this

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<sup>7</sup> FCA research, page 30: For those people in unmanageable debt, there is significant evidence that they can easily be tipped into a 'debt spiral', magnifying problems and leading to financial and non-financial detriment.

<sup>8</sup> FCA research, page 30: Consumers servicing existing debts but unable to pay down any principle. This can lead to incurring very high credit cost and is prevalent among those on low incomes.

<sup>9</sup> Prepayment meters installed under warrant: final proposals, page 18:

[https://www.ofgem.gov.uk/system/files/docs/2016/09/final\\_proposals\\_consultation\\_document.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/09/final_proposals_consultation_document.pdf)

prohibition, especially a potential increase in bad debt, and on the drafting of the relevant licence conditions/perceived duplication with other obligations.

2.9. A consumer group provided examples of consumers who reported suffering traumatic experiences where their supplier had attended their premises to force-fit a PPM. For instance, a case was reported where a consumer with severe mental health issues for whom the visit of the energy company's representative was felt to be particularly traumatic, with the consumer starting to self-harm. Another case was reported where a consumer with mental health problems and acute anxiety for whom installation of a PPM under warrant had a lasting negative impact, particularly as the behaviour of the supplier's representative was felt intimidating and frightening.

#### *Bad debt*

2.10. Six suppliers raised concerns that the prohibition on PPM force-fitting could lead to a number of consumers never paying for energy, building up bad debt. They envisaged this group continually accruing debt on credit meters because they could not have a PPM installed under warrant, and refuse to have a PPM installed voluntarily. Six suppliers suggested that the prohibition could be prone to gaming, whereby customers who "won't pay" would unfairly take advantage of the prohibition, leading to further bad debt.

#### *Alternative debt recovery action*

2.11. Five suppliers suggested the prohibition could lead to a rise in disconnections or a rise in court action as suppliers turn to alternative debt recovery options.

#### *'Severely traumatic'*

2.12. Seven suppliers thought the reference in the prohibition to 'severely traumatic' was too broad and would lead to suppliers identifying too many customers as falling under the prohibition. Conversely, two suppliers said that to avoid widespread gaming, suppliers might set a high threshold for determining vulnerability, which could lead to traumatic experiences for some consumers in vulnerable situations.

#### *Duplication*

2.13. Two suppliers considered that the current obligation at standard licence condition 27.6. (a)(iii)<sup>10</sup> requiring suppliers to only use a PPM when it is safe and reasonably practicable for the customer already provided the necessary protection.

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<sup>10</sup> SLC 27.6(a)(iii).

<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

## **Prohibition on charges**

2.14. Consumer groups unanimously supported this aspect of our proposals believing that it would greatly benefit a segment of the most vulnerable consumers. The majority of suppliers' responses raised concerns around the risk of increased bad debt; they also thought the licence drafting would capture too many consumers.

2.15. In supporting our proposals, consumer groups noted that unexpected charges could tip some indebted consumers in vulnerable situations over the edge into situations of further considerable detriment, even if the cap limited the charges. They noted that this could lead to other consequences, such as deteriorating mental health, stress and anxiety.

2.16. A consumer group highlighted that the impact of removing warrant-related charges is greater than purely the financial saving to the consumer. They noted that it could help alleviate stress and the sense of being penalised, and improve the relationship between supplier and consumer. They pointed out that this could help stop a vulnerable situation from worsening.

2.17. A debt charity highlighted that often those in energy debt are also in arrears on other accounts/areas of their lives. They reported that its clients with energy debts will often have around six creditors on average so that additional charges for debt collection activity can quickly cause problem debts to mount up and make repayment more unaffordable.

### *'Won't pay' customers*

2.18. Nine suppliers believed that a large number of customers going through the warrant process would be 'won't pay' customers who would not engage and would accrue bad debt. They thought it would be difficult to distinguish between 'won't pay' customers and those with genuine vulnerability, noting that this group of customers is typically the least willing to engage.

### *'Severe financial vulnerability'*

2.19. Seven suppliers questioned the set of vulnerability indicators described in the draft licence conditions believing that more consumers than intended would be covered by the prohibition. In particular, they thought that using the term 'severe financial vulnerability' covering the second aspect of the prohibition on charges would in practice likely account for the majority of customers who have progressed to the latter stages of debt collection activity. They saw this leading to a greater socialisation of costs than previously envisaged.

### *Duplication*

2.20. Six suppliers questioned the need for the second aspect of the prohibition on charges covering severe financial vulnerability, arguing that suppliers already have similar obligations under the 'Ability to Pay' licence obligations.<sup>11</sup>

## Our revised proposals

### Prohibition on installation where it would be severely traumatic

2.21. In line with our September 2016 consultation, we have retained our proposal to introduce a prohibition on the force fitting of a PPM using a warrant where the installation process would be severely traumatic for the consumer. We have adjusted the licence drafting for this prohibition to focus on the experience being traumatic due to a vulnerability relating to the customer's mental capacity and/or psychological state.

2.22. We have also expanded the licence drafting to cover instances where a supplier is relying on their statutory powers to force fit a PPM, but seeks the customer's consent to enter the premises and install the meter. The prohibition would continue to apply in these circumstances.

#### *Bad debt*

2.23. We acknowledge the risk that a customer segment that does not pay charges through a credit meter and cannot have a PPM force-fitted due to the likely trauma of the force-fitting experience will build up bad debt. We also recognise the risk that some consumers could seek to unfairly benefit from this exemption.

2.24. We expect those likely to be severely traumatised by the force-fitting experience to be very small. We also recognise the value of ongoing dialogue between a supplier and their consumer to help identify genuine vulnerability, including cases where customers have transitioned in or out of a temporary vulnerable situation. Such dialogue and the utilisation of other sources of information where direct contact cannot be made should help suppliers identify genuine cases where the prohibition must apply and tailor their actions according to the individual circumstances of the case at a particular time.

#### *Alternative debt recovery action*

2.25. Given the nature of consumer vulnerability and the small volume of cases we expect to be covered by this prohibition, we do not anticipate suppliers responding to the prohibition by adopting other punitive debt recovery methods.

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<sup>11</sup> Standard Licence Condition 27.8.

<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

2.26. In addition, we have reserved the option to extend the scope of the definition of a 'Relevant Warrant' to include disconnections in our draft licence conditions. This is to allow warrants obtained for entering a property to disconnect supply due to unpaid charges to be restricted in the same way as the use of warrants for the force-fitting of a PPM due to unpaid charges.

*'Severely traumatic'*

2.27. We described some of the circumstances where we believe that a customer would be likely to experience severe trauma because of having a PPM force-fitted in our September 2016 consultation.<sup>12</sup> This was to help guide suppliers' understanding of this proposed obligation. To further guide suppliers, we have also updated the licence drafting to refer specifically to cases where a customer's mental capacity and/or psychological state makes them vulnerable to experiencing severe trauma as the result of a PPM being force-fitted.

2.28. Our Consumer Vulnerability Strategy<sup>13</sup> was published four years ago and sets out our expectations about how suppliers should identify and respond to vulnerability. Our proposal to introduce an overarching vulnerability principle into the supply licence was first announced in August 2016.<sup>14</sup> Following the recent publication of our statutory consultation,<sup>15</sup> we remain of the view that introducing a vulnerability principle into the domestic Standards of Conduct will incentivise suppliers to make extra efforts to treat vulnerable customers fairly. A key part of this requirement will be for suppliers to be more effective at identifying vulnerability.

2.29. We believe this combination of factors will mean that suppliers are well placed to effectively identify vulnerability relevant to this prohibition.

*Duplication*

2.30. The proposed prohibition will complement the existing rules designed to ensure safe and reasonably practicable usage of PPMs, and set a clear and explicit requirement on suppliers in the specific scenario of PPM force-fitting.

2.31. The current prescriptive rules focus on the use of a PPM, and whether it is safe and reasonably practicable. Our proposals go further than the existing rules, and instead focus on the effect of the installation of a PPM under warrant. We acknowledge that there will be some examples of crossover between the current rules and our proposed prohibition where it is not safe and reasonably practicable to use a PPM and where it is also likely that force-fitting a PPM would lead to a severely

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<sup>12</sup> page 22 September 2016 consultation

<sup>13</sup> <https://www.ofgem.gov.uk/publications-and-updates/consumer-vulnerability-strategy>

<sup>14</sup>

[https://www.ofgem.gov.uk/system/files/docs/2016/08/fr\\_working\\_paper\\_on\\_broad\\_principles\\_-\\_final.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/08/fr_working_paper_on_broad_principles_-_final.pdf)

<sup>15</sup> <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-standards-conduct-suppliers-retail-energy-market>



traumatic experience due to the customer's psychological state and/or mental capacity.

### **Prohibition on charging due to significantly impaired ability to engage or severe financial vulnerability**

2.32. We have retained our proposal to prohibit the levying of charges for warrant-related costs where the affected customer's ability to engage with their supplier is significantly impaired due to a vulnerability, or where they already have severe financial vulnerability that would be exacerbated by the levying of additional charges.

#### *'Won't pay' customers*

2.33. We acknowledge the risk that some 'won't pay' customers could try to unfairly take advantage of the prohibition on charges. However, we believe that suppliers are well placed to mitigate this risk. Suppliers can use a range of mechanisms, including liaison with third parties, to take steps to identify vulnerability at each stage of the debt recovery process, including during the process of executing a warrant. Where a supplier has taken steps to attempt to identify vulnerability but none has been identified, then the option to levy warrant-related charges remains open.

#### *'Severe financial vulnerability'*

2.34. We expect that suppliers may use various proxies as part of their toolkit when identifying severe financial vulnerability. For example, we would expect a Debt Relief Order (DRO) to be an indicator of severe financial vulnerability.

2.35. Suppliers may also be able to utilise the information they receive from third parties to help with identification. For example, many suppliers use credit reference agency data to assess customers' credit risk status when taking on new customers – it may be that this data can be used to identify severe financial vulnerability in the context of a warrant application.

2.36. Our Consumer Vulnerability Strategy sets out our expectations about how suppliers should identify and respond to vulnerability. Our proposal to introduce an overarching vulnerability principle into the supply licence was first announced in August 2016<sup>16</sup>. Following the recent publication of our statutory consultation, we remain of the view that introducing a vulnerability principle into the domestic Standards of Conduct will incentivise suppliers to make extra efforts to treat vulnerable customers fairly. A key part of this requirement will be for suppliers to be more effective at identifying vulnerability.

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<sup>16</sup>

[https://www.ofgem.gov.uk/system/files/docs/2016/08/frr\\_working\\_paper\\_on\\_broad\\_principles\\_-\\_final.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/08/frr_working_paper_on_broad_principles_-_final.pdf)

2.37. We believe this combination of factors should mean that suppliers are well placed to effectively identify vulnerability relevant to this prohibition.

*Duplication*

2.38. We do not believe that the existing obligation for suppliers to take account of a customer's 'Ability to Pay' duplicates our proposal to prohibit the levying of warrant-related charges for those already in situations of severe financial vulnerability. It is true that both the existing and proposed obligations are designed to ensure that suppliers effectively account for their customers' financial situations, including any financial vulnerability when recovering charges. However, the Ability to Pay obligations do not prevent the levying of charges for the force-fitting of a PPM, whereas our proposed obligations will do this in situations of severe financial vulnerability.

## 3. Cap

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### Chapter Summary

In our September 2016 consultation, we proposed capping the charges suppliers can levy when they use a warrant to force-fit a PPM to recover debt. This chapter recaps on the issues we identified and proposals we set out in our September 2016 consultation, summarises consultation respondent's views on our proposals, and sets out our revised proposals.

### The issues we identified

3.1. In our September 2016 consultation, we identified issues concerning the level and consistency of charges levied by suppliers using warrants to force-fit PPMs to recover debt.

3.2. We identified a significant number of cases where suppliers were charging large amounts when applying for and executing a warrant. We noted that in some cases, the charges applied for the whole process can exceed £600<sup>17</sup> with extreme cases of charges over £1000. We set out how such high charges could present consumers with large unexpected bills, and in some cases with charges that far exceeded the average level of costs actually incurred by suppliers.

3.3. We also identified significant inconsistencies in costs and charges across suppliers with warrant costs for a dual fuel consumer typically ranging from £200 to over £900. Some suppliers told us they waived charges in certain cases with different suppliers setting different criteria for when they would waive charges including considering any consumer vulnerability, the outcome of negotiations with a customer, or various other factors. We set out how this inconsistent approach created uncertainty for consumers who would not know what to expect when facing warrant-related charges.

### September 2016 consultation proposals

3.4. We proposed capping the level of charges suppliers could levy for the costs they incur when applying for and executing a warrant to force-fit a PPM. We proposed setting the cap at either £100 or £150 and reserving the power to increase the threshold in future. These levels compare to the indicative cost of applying for and executing a warrant that stands at £210 according to the data we received from suppliers in response to our May 2016 Request for Information.

3.5. We set out our policy intention that implementing this cap would incentivise suppliers to utilise alternative debt recovery methods because they would only be able to recover some of the costs incurred. To incentivise suppliers providing both gas and electricity to a customer to operate the warrant application and execution

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<sup>17</sup> Taken from the May 2016 RFI

process efficiently, we proposed limiting these suppliers to only charging once. This includes cases where the supplier was seeking to force-fit both an electricity and a gas PPM.

3.6. We acknowledged the risk that some suppliers, who previously waived charges or levied relatively low charges, might choose to charge up to the level of the cap with a resulting increase in costs for some consumers.

3.7. We described how a cap, as opposed to a complete ban on charging, would retain a degree of incentive for consumers to engage with their supplier to avoid incurring warrant-related costs. We described how this would also protect suppliers' ability to recover a significant proportion of the costs associated with the warrant application and execution process.

3.8. We acknowledged that the choice between the two different cap levels we consulted on (£100 and £150) would have an impact on these factors.

3.9. Our proposals also included a 'sunset clause'. This would mean that the cap would cease to apply after the expected end-date for smart meter rollout (31 December 2020). We explained how the rollout of smart meters would likely remove the need for the physical installation of PPMs using a warrant to force entry to premises, because a smart meter can be switched to PPM mode remotely. This would reduce the need for regulation in this area.

## Summary of consultation responses

3.10. There was unanimous support for a cap from consumer groups, including situations when the warrant process was not completed. There was strong opposition from suppliers who raised concerns about the legality of our proposals, the level of the proposed cap, the impact of non-standard warrant cases, and increased consumer disengagement. However, there were two suppliers who agreed in principle that a cap could have the desired effect of incentivising suppliers to minimise warrant costs.

3.11. Consumer groups noted the detriment caused by high charges when supporting the implementation of a cap. For example, a debt charity said that continuing to add further costs to the debt that already exists by passing on warrant costs would only serve to worsen existing financial difficulties. Another debt charity noted that even relatively small amounts of unexpected expenditure could be enough to push vulnerable people into crisis.

3.12. Consumer groups also supported the consistency of charging that the cap would bring. One consumer group said that a cap on warrant charges for all consumers would offer much-needed protection from some of the highest charges for warrants while also encouraging suppliers to think more carefully about whether a PPM is really the best option for that consumer.

3.13. A professional services representative body highlighted the positive incentive a cap set at the proposed level would send to suppliers to streamline and evaluate their processes, which they may not currently be doing as vigorously as they could.

#### *Legality*

3.14. Three suppliers and a trade body questioned Ofgem's legal right to implement a cap on warrant charges. They argued that the proposals illegally interfere with suppliers' statutory rights.

#### *Cost reflectivity*

3.15. Thirteen suppliers raised concerns that the proposed level of the cap at either £100 or £150 would not be reflective of the costs they typically incur during the warrant process. They said they would likely opt to socialise costs that cannot be recovered across their customer bases.

#### *Non-standard cases*

3.16. A trade body and two suppliers thought there should be an exception to the cap where customers undertake action to evade suppliers and impede the installation process. They did not think that other customers, including customers in vulnerable situations, should effectively have to pay additional socialised costs to subsidise those who wilfully exploit the system.

#### *Consumer disengagement*

3.17. Nine suppliers argued that some customers would not feel incentivised to engage with them upstream of the warrant process if they knew they would only incur a cost of £100 or £150 once debt recovery action reached the warrant stage. They thought this would lead to a customer's debt growing higher than it would otherwise, exacerbating any existing financial difficulty and increasing the level of bad debt the supplier would have to manage.

## **Our revised proposals**

3.18. In line with our September 2016 consultation, we have retained our proposal to introduce a cap on charges for warrant application and execution. We propose setting the cap at £150.

#### *Legality*

3.19. The legislative framework<sup>18</sup> gives Ofgem very broad licence modification powers to introduce such conditions as we consider requisite or expedient (whether

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<sup>18</sup> Section 7 of the Electricity Act 1989 and section 7B of the Gas Act 1986.

or not relating to the activities authorised by the licence), having regard to our principal objective and general duties.

3.20. Ofgem is firmly of the view that this framework gives Ofgem the power to restrict or constrain the use of licence holder's statutory powers (including powers to recover costs from particular customers), provided that it is consistent with our principal objective and general duties.

3.21. Given the rationale for the intervention set out in this document, Ofgem considers that it is acting in a way that is consistent with its principal objective and general duties. Furthermore, we note that, whilst these proposals place significant restrictions on the actions available to suppliers in relation to certain consumer groups, they do not completely frustrate the statutory powers available to suppliers to recover debt from consumers more generally.

#### *Cost reflectivity*

3.22. In line with the policy intent set out in our September 2016 consultation, we are retaining our proposal to set the cap at a level lower than that of the indicative costs incurred by suppliers for the application and execution of a warrant to force-fit a PPM. This will incentivise suppliers to use alternative debt recovery methods. We acknowledge that this will result in some additional cost for suppliers, and assess the extent of these costs in our updated Impact Assessment (IA). The updated IA reflects our proposal to select the higher of the two cap level options - £150 – which will enable suppliers to recover a significant proportion of their costs.

3.23. The proposed drafting includes the ability for us to increase the level of the cap by publishing a statement in writing should we later consider this to be appropriate.

#### *Non-standard cases*

3.24. We acknowledge that additional cost may be accrued by suppliers when dealing with consumers who do not have a relevant vulnerability but wilfully seek to exploit the system by evading contact and attempting to prevent the force-fitting of a PPM. However, we believe the volume of these cases is likely to be limited and recognise the risk that creating an exception within the proposed licence obligation could inadvertently result in situations where consumers are wrongly caught by the exception and charged beyond the level of the cap. With this in mind, we have not sought to create an exception catering for these cases. Our IA covers the cost of all cases where a warrant is used to force-fit a PPM so additional costs arising from these extreme cases have been accounted for.

#### *Consumer disengagement*

3.25. We recognise the possibility of some consumers being dis-incentivised from engaging with their supplier when the cost for any warrant-related charges is capped. However, we believe the prospect of an additional charge of up to £150 (the

equivalent of approximately 15% of an average annual dual-fuel PPM bill<sup>19</sup>) will act as a strong incentive for consumers to engage with their supplier, so we believe the risk of dis-incentivising engagement will be limited.

*'Specified Period'*

3.26. We have made a minor adjustment to the draft licence conditions to ensure that our intent that suppliers only levy warrant-related charges once in a 12-month period is fully met by the licence conditions. This adjustment takes the form of defining a 'Specified Period' within which warrant-related charges can be levied.

3.27. Our proposed drafting gives Ofgem the power to lengthen or shorten the specified period, and to do this by publishing a statement in writing or issuing a direction to one or more suppliers.

*Sunset*

3.28. The draft licence conditions provide Ofgem with the power to change the sunset date to a later date on more than one occasion by publishing a statement in writing. This is consistent with the previous version of the licence drafting consulted on in September 2016.

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<sup>19</sup> Based on Energyhelpline data as of 29 May 2017 for average GB households, using median consumption values.

## 4. Proportionality principle

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### Chapter Summary

In our September 2016 consultation, we included proposals for the addition of a proportionality principle to cover suppliers' actions when recovering debt, with or without the use of a warrant to force-fit a PPM. This chapter recaps on the issues we identified and proposals we set out in our September 2016 consultation, summarises consultation respondents' views on our proposals, and sets out our revised proposals.

### The issues we identified

4.1. In our September 2016 consultation, we identified a number of issues that we wished to tackle by introducing a proportionality principle covering all supplier actions when recovering debt, including the use of a warrant to force-fit a PPM.

4.2. We recognised some examples of good practice where suppliers appeared to be acting in a proportionate manner to recover debt. In particular, we noted the practice of some suppliers taking a 'stepped approach' to debt recovery. In these cases, suppliers only escalate their level of action when certain debt thresholds are breached and only after customers have been given sufficient time to respond to each debt recovery communication.

4.3. Alongside this good practice, we identified poor practice where some suppliers were acting in a disproportionate manner when recovering debt. In particular, we identified the following practices:

- Some suppliers escalating the debt and warrant process rapidly to ensure debt build-up is minimised. We recognise the merits of taking this approach in some instances. However, we also recognise that in others, this approach is not in the best interests of the consumer due to them incurring often significant additional charges, without first affording them the opportunity to address the underlying debt relating to outstanding charges for energy consumed.
- Consumer groups presented case studies where some warrant charges exceeded the level of the energy debt.
- Consumer groups also presented case studies of consumers being charged for multiple warrant applications when in practice only one warrant was used.

4.4. We set out how we were particularly concerned at the risk of suppliers shifting debt recovery costs upstream of the warrant process because they would be restricted from recovering the full amount of warrant-related costs due to our other proposals. We explained how we saw a principle of proportionality helping to guard against this risk because it would mean that suppliers would need to act in a



proportionate manner and ensure that any debt-recovery charges they levied were proportionate throughout the debt recovery process.

## September 2016 consultation proposals

4.5. We proposed introducing a proportionality principle to protect consumers from some suppliers taking disproportionate action or levying disproportionately high charges in the course of recovering debt. In particular, we consulted on introducing the principle to guard against suppliers potentially levying disproportionate costs for debt recovery actions upstream of the warrant process to help them recover costs they would no longer be able to recoup due to the imposition of our proposed cap on warrant charges.

4.6. In line with existing obligations under standard licence condition 27.8 of both the gas supply licence and electricity supply licence, suppliers would also need to continue having regard to a customer's Ability to Pay when recovering debt.

## Summary of consultation responses

4.7. We received broad support for our proposal to create a proportionality principle, although some suppliers raised concerns about the positioning, scope and drafting of the principle.

4.8. Consumer groups were in favour of the proportionality principle. One consumer group noted the particular value of the intent behind the principle to prevent suppliers moving costs upstream within the debt recovery process, as they would only be able to partially recover warrant costs due to our other proposed restrictions on the usage of warrants and levying of charges for warrant-related costs.

4.9. A trade body and three suppliers felt that the proportionality principle should be taken forward but as a standalone proposal, rather than alongside the other proposals.

### *Transfer objections*

4.10. Three suppliers felt that the scope of the principle should not include transfer objections. They noted the risks of increased bad debt and customer disengagement associated with restricting suppliers' ability to object to transfers when a consumer owed them money and advocated removing transfer objections from the scope of the proportionality principle to mitigate these risks.

### *'Original amount'*

4.11. Six suppliers thought that the term 'original amount' used in the drafting of the principle to refer to the volume of debt was ambiguous. For example, one supplier questioned the meaning of the term in a scenario where a supplier pursued

a customer for a certain amount of debt, and the customer then accrued a greater volume of debt by consuming more energy without paying for it.

## Our revised proposals

4.12. In line with the proposals set out in our September 2016 consultation, we have retained our proposal to introduce a proportionality principle covering the actions suppliers take to recover debt whether or not a warrant is used.

4.13. We have retained our proposal to implement the proportionality principle in conjunction with our other proposals. In line with our September 2016 proposals, we propose doing this primarily to mitigate the risk of suppliers increasing the amount they charge customers for the debt recovery process upstream of the warrant process due to suppliers being restricted in the amount they can recover for warrant-related costs due to our other proposals.

### *Transfer objections*

4.14. We propose adjusting the scope of the principle's definition to exclude transfer objections. In line with our previous decision, regarding the use of transfer objections<sup>20</sup> and per the concern raised by some suppliers in their consultation responses, we recognise the risks of increased bad debt build-up and customer disengagement posed by placing restrictions on transfer objections. Per our previous decision regarding transfer objections, we expect suppliers to refer to their existing obligations under the Standards of Conduct when considering whether it is fair to object to transfers for consumers with relatively low levels of debt.

4.15. Excluding transfer objections from the scope of the proportionality principle will mitigate these risks and enable suppliers to recover debt that might otherwise be passed onto other consumers were suppliers unable to recover it. We have adjusted the draft licence conditions accordingly.


### *'Original Amount'*

4.16. Our intention is that suppliers should ensure that any action and costs associated with warrant application and execution are proportionate in the context of the amount of debt a consumer has accrued due to the customer not paying for energy they have used at the time the supplier takes action. We have adjusted the licence drafting to make this clear.

4.17. Our intention is also that suppliers should not factor any costs related to the recovery of a debt - for example, the costs of sending letters or making phone calls - into their decision-making when considering the proportionality of applying for and executing a warrant. This will guard against the risk of debt recovery activities

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<sup>20</sup> <https://www.ofgem.gov.uk/publications-and-updates/decision-review-domestic-and-non-domestic-objections>



## Prepayment meters installed under warrant - statutory consultation

inflating the level of overall debt to a point where a supplier believes it is proportionate for a warrant to be used even when the amount of debt owed due to unpaid energy usage falls short of the costs associated with a warrant.

4.18. We have adjusted the licence drafting to separate out the application of the proportionality principle on the recovery of debt more generally and other than with the use of a warrant. In these cases our proposed licence drafting will allow suppliers to factor all types of debt into their decision-making when considering the proportionality of their actions.

## 5. Monitoring

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### Chapter Summary

In our September 2016 consultation, we said we would consider monitoring as our policy positions developed further. This chapter sets out our plans for monitoring the impact of our proposals and supplier compliance with them.

### Social Obligations reporting

5.1. We will continue to use our Social Obligations reporting (SOR)<sup>21</sup> tool as a key mechanism for monitoring the scale of warrant usage for force-fitting PPMs for debt recovery, including any industry-wide or supplier-specific trends. The current SOR arrangements already capture key data points concerning the use of warrants, and we will consider refining the collection of data in this area as part of our plans to consult on revising the SOR more broadly later this year.

5.2. We will use our annual Social Obligations report as a tool for publicising good practice where this is possible to help suppliers identify potential process improvements.

#### *Disconnections*

5.3. We recognise that using a warrant to force-fit a PPM provides one option within the end-to-end debt recovery process. Changes in the volume of warrant usage may be triggered by conscious shifts in suppliers' policies or by occurrences elsewhere in the debt recovery process. Similarly, we recognise that changes in warrant usage may trigger downstream impacts. We are especially concerned about any impacts changes in the usage of warrants may have on the volume of disconnections, given the severe consumer detriment that can be caused by a disconnection and resulting loss of supply.

5.4. We are conscious of the risk that the volume of disconnections may rise as an unintended consequence of implementing restrictions on the use of warrants for the force-fitting of a PPM to recover debt as suppliers look for alternative debt recovery options.

5.5. Our proposed proportionality principle should help guard against this risk – suppliers will need to consider whether taking the significant step of disconnecting supply would meet the requirements of this principle in the same way as for other debt recovery actions.

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<sup>21</sup> <https://www.ofgem.gov.uk/about-us/how-we-work/working-consumers/protecting-and-empowering-consumers-vulnerable-situations/consumer-vulnerability-strategy/consumer-vulnerability-strategy-social-obligations-reporting-sor>

5.6. We have also reserved the option to extend the scope of the definition of a 'Relevant Warrant' to include disconnections in our draft licence conditions so that warrants obtained for the purpose of disconnecting supply due to unpaid charges can be restricted in the same way as the use of warrants for the force-fitting of a PPM due to unpaid charges (the power to do this would be subject to consultation, and could be exercised by either publishing a statement in writing or issuing a direction to one or more suppliers).

5.7. We will follow up on disconnection cases to understand the reasons behind them and take action as necessary as we do now. We have been encouraged to see a reduction in the number of disconnections by suppliers over a number of years to the point where many suppliers no longer disconnect customers for unpaid charges, and do not expect to see suppliers reverse this downward trend as a result of the restrictions we propose placing on warrant usage.

### **Consumer representatives and third parties**

5.8. We work closely with consumer representatives and third parties to gain information to enrich our evidence base on a range of issues. We will continue to gather information from these sources on warrant usage by suppliers, including utilising our tripartite agreement with Citizens Advice and the Energy Ombudsman and consulting with the Magistrates Association (England and Wales), the Scottish Justice Association and other interested parties.

## Appendices

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## Appendix 1 – September 2016 consultation: questions and respondents

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1.1. We consulted on our proposals in September 2016 and have updated these proposals in this document. Here is a list of the questions we posed and a list of respondents.

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

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

**Question 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?

**Question 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)

**Question 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?

**Question 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?

1.2. In conjunction with our proposals we also consulted on implementing the following licence condition:

- Condition 28A. Warrants relating to Prepayment Meters and other supplier actions to recover debts

1.3. Below is a list of respondents:

Association of Local Energy Officers (ALEO)

Basildon and Thurrock University Hospitals NHS Foundation Trust


British Gas

Changeworks

Christians Against Poverty

Citizens Advice

Citizens Advice Coventry



Prepayment meters installed under warrant - statutory consultation

Chartered Trading Standards Institute (CTSI)

E.ON

Economy Energy

Ecotricity

EDF

Energy UK

Feeding Britain

Good Energy

Islington Council

npower

OVO Energy

Paul Wheelhouse MSP

Robin Hood Energy

Scottish Power

Spark Energy

SSE

Step Change

The Children's Society

Utilita

Utility Warehouse



## Appendix 2 – Proposed licence condition 28B

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### **Condition 28B. Warrants relating to Pre-payment Meters and other supplier actions to recover debts**

#### **Prohibitions on exercising a warrant and recovering costs**

28B.1 The licensee must not exercise a Relevant Warrant (or otherwise exercise a statutory power which would give rise to the grounds for obtaining a Relevant Warrant) in respect of a Domestic Customer's premises where such action would be severely traumatic to that Domestic Customer due to an existing vulnerability which relates to their mental capacity and/or psychological state and would be made significantly worse by the experience.

28B.2 The licensee must not charge a Domestic Customer in respect of any costs associated with a Relevant Warrant where:

- (a) that Domestic Customer has a vulnerability which has significantly impaired their ability to engage with the licensee or a Representative in relation to the recovery of a Relevant Payment; or
- (b) that Domestic Customer has a severe financial vulnerability which would be made worse by charging them any costs associated with a Relevant Warrant.

#### **Cap on warrant costs**

28B.3 Where the Licensee or any Affiliated Licensee obtains and/or exercises one or more Relevant Warrants (including in relation to premises of Domestic Customers subject to Tariffs which use the brand name of a person that does not hold a Gas Supply Licence and/or Electricity Supply Licence), the total amount of charges they recover (or seek to recover) from the same Domestic Customer in relation to any costs associated with those Relevant Warrants and incurred within the Specified Period must not exceed the Specified Amount (and, for the avoidance of doubt, no additional costs that were incurred within the Specified Period may be recovered during any other period of time).

#### **Proportionality principle for debt recovery activities**

28B.4 The licensee must only exercise a Relevant Warrant where such action would be proportionate in the context of the amount of the Outstanding Charges.

28B.5. In relation to the recovery of Outstanding Charges, Other Outstanding Charges or any other debt ('the charges') from a Domestic Customer, the licensee must ensure that:

- (a) any action it or a Representative takes (including, but not limited to, the exercise of statutory powers); and

(b) the costs which they seek to recover from that Domestic Customer as a result,

are proportionate in the context of the amount of the charges.

28B.6 Paragraph 28B.5 does not apply in relation to a Transfer Objection.

### **Duration of the restrictions**

28B.7 Paragraphs 28B.1 to 28B.4 will cease to have effect on 31 December 2020 unless the Authority specifies a later date by publishing a statement in Writing.

28B.8 The power to specify a later date in paragraph 28B.7 may be exercised by the Authority on more than one occasion (before, on, or after the expiry of any later date specified by the Authority).

### **Definitions for condition**

28B.9 For the purposes of this condition:

**“Relevant Warrant”** means:

- (a) a warrant pursuant to paragraph 23(2)(c) of Schedule 2B to the Gas Act 1986;
- (b) a warrant pursuant to paragraph 7(4) of Schedule 6 to the Electricity Act 1989; and
- (c) any other type of warrant specified or described by the Authority by publishing a statement in writing (or by issuing a direction to the licensee), following consultation.

**“Specified Amount”** means £150 or such higher amount as may be designated by the Authority from time to time by publishing a statement in Writing.

**“Specified Period”** means twelve months or such other (shorter or longer) period which may be specified by the Authority by publishing a statement in writing (or by issuing a direction to the licensee), following consultation.

**“Transfer Objection”** means to prevent a Proposed Supplier Transfer on grounds permitted by standard condition 14.

**“Relevant Payment”** has the meaning given in paragraph 7(1A) of Schedule 2B to the Gas Act 1986 and paragraph 2(1A) of Schedule 6 to the Electricity Act 1989.

## Appendix 3 – Statutory consultation question and general feedback

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1.4. We would like to hear your views on any of the issues raised in this document. In particular, we welcome views on the draft licence conditions in the appendices to this document. Please respond by close of business on **29 August 2017** and send responses to:

Moritz Weber  
Consumer Vulnerability Strategy  
Ofgem, 9 Millbank, London, SW1P 3GE  
0207 901 7000  
[prepayment@ofgem.gov.uk](mailto:prepayment@ofgem.gov.uk)

1.5. Unless marked confidential, all responses will be published in Ofgem’s library and on our website [www.ofgem.gov.uk](http://www.ofgem.gov.uk). You may ask for your response to be kept confidential which we will respect subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. If you would like your response to be kept confidential, please clearly mark your document(s) accordingly.

1.6. If the information you give in your response contains personal data under the Data Protection Act 1998, the Gas and Electricity Markets Authority will be the data controller. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000.

### **General feedback**

1.7. We believe that consultation is at the heart of good policy development. We are keen to hear your comments about how we’ve conducted this consultation. We’d also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk).