



By email only

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Prepayment meters installed under warrant - statutory consultation

Dear Moritz,

npower aims to treat all customers fairly and supports Ofgem in their duties to protect all consumers, specifically those with vulnerabilities. Naturally it is our full intention to comply with all licence conditions, SLC26 having specific provision for fairness and the treatment of vulnerable customers.

However, having responded to the September 2016 consultation on this topic as well as attending the Ofgem-hosted workshop in October, at which significant concerns were raised, it's disappointing to see little change in the proposals upon receipt of the statutory consultation.

As noted below, npower is supportive of Ofgem's aims, but as indicated in previous responses, there remains significant concerns about how these proposals will be implemented and the consequences flowing from them appear not to have been taken into account in the statutory consultation.

Further, as currently drafted, there are too many unintended consequences for the proposals to be considered optimal. These proposals will create an ever-growing group of customers whom by definition, through their refusal to engage or makes payments will receive free energy, at a cost to all other bill payers, including vulnerable customers.

npower welcome the opportunity to work with Ofgem to further develop proposals that deliver the policy aims but which do not introduce the level of risk that the existing proposals would do.

This response is not confidential.

Yours sincerely

David Smith
Regulation

Ofgem's Proposals

1. A prohibition on suppliers using warrants in certain exceptional cases.

npower do not expect the courts to grant warrants where these would be inappropriate. It is npower's policy to comply with the regulations which mandate that installing pre-payment meters (PPMs) must only take place where safe and reasonably practical. npower see no merit in the addition of duplicating regulations and are of course aware that all customers should be treated with sensitivity at the time of fitting the PPM under warrant.

There remains a concern that the current drafting of Supplier Licence Condition (SLC) 28B.1 leaves a lot of scope for those consumers who can but won't pay to game from these proposals by creating a situation where they, in effect, receive free energy. Further, in its current form, the draft SLC does not align to the Priority Services Register (PSR) needs codes for electricity, nor those proposed for gas. Further, the SLC drafting is so broad it may mean that suppliers interpret it differently.

Ofgem believes the installation of PPMs via warrant can be avoided through ongoing dialogue with consumers or the utilisation of alternative debt recovery action. npower currently makes every attempt to engage with consumers throughout the debt journey, offering assistance when possible to avoid a situation where there is a need to progress to seek a warrant of entry.

Customers in debt often, whether vulnerable or not, often refuse to engage. PPMs provide a way to budget for energy and prevent the build-up of the debt that can be damaging to consumers. Removal of this option makes disconnection more likely (other than restricted by regulation in the winter for certain customer groups and by the self-regulation Energy UK Safety Net at any time for those vulnerable according to the definition of the Safety Net). We do not believe that the permanent provision of energy unpaid for is the right approach. If npower reaches the stage where the application for warrant commences, it's as a result of all other options failing. This is either due to a lack of engagement generally from the consumer or an unwillingness to consider other options that would continue to allow payment for energy via a credit meter.

Prior to fitting a PPM under warrant, multiple contact attempts (on average, fifteen) are made by phone, letter, email, text message (where this contact information has been provided by the customer) and by visiting the property. During this debt journey, if a vulnerability comes to light that wasn't previously known, specifically relating to financial vulnerability (there are no existing vulnerability markers for this and credit checks take place at acquisition, they are not ongoing), npower ensures that any action remains suitable and appropriate for that customer. npower will never knowingly fit a PPM at a property where it would not be safe nor reasonably practicable, this includes instances where a customer's vulnerability would impact their ability to use a PPM.

Ofgem has not taken full account of the unintended consequences of this policy, nor rebutted the arguments presented by respondents to the previous consultation. Notwithstanding, npower remains fully committed to working with Ofgem in this area to further define the SLC drafting in order to better deliver its policy aims whilst minimising the impacts to other customer groups, including those customers with vulnerabilities who already engage with their energy supplier and at least attempt to pay for the energy they consume on time.

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

Ofgem acknowledges that there is a risk that some ‘won’t pay’ customers could attempt to unfairly take advantage of this restriction. Suppliers, specifically those who are signatories to the Energy UK Safety Net, are already duty bound to collect, maintain and utilise information relating to a consumer’s vulnerabilities when operating their existing processes. This information is taken on face value and in good faith.

If suppliers are to be prohibited from levying warrant-related costs upon consumers with vulnerabilities, this will lead to situations where suppliers are forced to take a more investigative approach with all consumers, for example, requiring evidence of any stated vulnerabilities before acting on them, something which would be both unwanted and inconvenient for genuinely vulnerable customers. Unfortunately, this is likely to be an approach industry wide should suppliers see an increase in customers claiming to be vulnerable to avoid certain debt-related charges.

npower would welcome Ofgem views on how suppliers should increase the evidence they are able to seek from customers who proactively provide information that they are in a vulnerable situation. In addition to this how the risk associated with fake evidence provided can be reduced for all suppliers?

We would welcome the opportunity to work with Ofgem to further understand what other actions may be in mind when encountering customers who will not engage throughout their billing or debt journey. We are keen to avoid these customers building up an annual debt of an average of £1200, exasperating their detriment and financial insecurity.

3. 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.

We would, firstly, like to raise concerns as to how the proposed SLC is currently drafted:

“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).”

Notwithstanding the requirement from some, if not all courts, that warrants are applied for on a ‘per fuel’ basis, can Ofgem confirm that it is their intention that the “cap” is applied at a customer level, rather than at a property level? The SLC, as currently drafted, would limit the amount a supplier could charge a single customer for warrant activity to a single charge of the “Specified Amount” within the “Specified Period”, regardless of how many properties that supplier supplies for that particular customer. There are instances where a single customer owns multiple properties supplied by the same energy supplier. Is it Ofgem’s policy aim to restrict suppliers’ abilities to apply cost recovery charges where these costs are as a result of multiple properties requiring multiple warrants of entry?

Additionally, the SLC as currently drafted, penalises those consumers who take gas and

electricity from separate suppliers. Should that consumer fall into debt on both fuels then each supplier could progress to warrant and apply a charge of up to £150 (as currently drafted). However, where a single consumer takes both fuels from a supplier, the supplier is restricted to a single charge per customer within the specified period. This falls well below true cost to suppliers and Ofgem should consider carefully its vires in denying recovery of the costs of supply.

Npower would suggest that any cap introduced should be applied per customer, per property and per fuel. This would be a more consistent approach for all customers, regardless of whether they were single or dual fuel and is more in line with Standards of Conduct.

Ofgem should also investigate the potential data protection issues where there are white label arrangements involved due to the inclusion of "Affiliated Licensee" in the SLC drafting.

Ofgem believes that introducing a cap will incentivise suppliers to utilise alternative debt recovery methods. As per npower's response to the previous consultation, the warrant phase would only commence once all other debt recovery options have been exhausted. If Ofgem believes there are alternative methods that suppliers are not but should be utilising, then Ofgem should provide examples.

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

Ofgem's clarity that transfer objections can still take place due to consumer debt (in line with suppliers' existing obligations under the Standards of Conduct) is welcome, as is clarity that the 'original amount' takes into consideration all debt (with the exception of debt collection costs, i.e. the costs of letters) that the customer owes at the point the supplier takes action (applies for warrant in this case).

npower is supportive of a proportionality principle as this is already there are already thresholds which must be reached before each stage of the debt-recovery processes can begin. However, it must be called out a restriction on the amount of those costs suppliers incur which can be passed through to customers as a result of "the cap" may see a reduction in those thresholds, increasing the number of customers who progress to the warrant stage of the debt journey.

For example, the minimum cost for applying for and executing a warrant is upwards of £200. If suppliers' existing practices require a debt threshold of over £200 before the warrant process can begin, a reduction in the total costs suppliers can recover being set at £150 may see the threshold for the warrant process beginning consequentially reduced to the same level. Ironically, this may result in an increase in suppliers' debt-related follow-up activity with the concomitant increase in costs borne by all customers.

Further, as part of suppliers' mitigation, it may also be necessary to encourage more operational focus to drive intense earlier contact, the implications of which could see increased supplier costs as a result of increased operational demand and resource required to achieve customer resolution prior to warrant.

General Feedback

1. Do you have any comments about the overall process of this consultation?

Yes.

npower has fully engaged throughout this process, contributing to RFIs, submitting consultation responses and attending Ofgem-hosted workshops. However, the constructive input provided has been largely ignored and legitimate concerns raised by suppliers have not been fully addressed by Ofgem. npower urges Ofgem to work with industry to develop these proposals further.

2. Do you have any comments about its tone or content?

Yes.

The tone of the consultation does not recognise the time, costs and effort suppliers expend in attempting to recoup monies owed by customers. The vast majority of customers who fall into the debt follow-up process do not end up at the stage where a warrant will be required to force-fit a PPM. Those who, unfortunately, are subject to a warrant being sought tend to be unwilling to engage with their supplier to discuss their energy debts. Suppliers are effectively left with little options but to progress to warrant in the majority of such cases.

The consultation and impact assessment paints a picture of constant bad practice by suppliers, including creating the false impression that they are actively fitting PPMs via warrant as soon as they can. Furthermore, it does not, at any point, highlight the consumer's obligation to pay for the energy they consume, nor does it recognise the difficulties suppliers face when dealing with customers who simply refuse to engage. npower would welcome further guidance or information on how suppliers should act when encountering customers who fall into the 'no contact' bracket?

3. Was it easy to read and understand? Or could it have been better written?

Yes.

Both the consultation document and the impact assessment document were easy to read.

4. Were its conclusions balanced?

No – concerns raised during the consultation process appear to have been over-ridden or disregarded.

Ofgem has not fully taken into account the legitimate concerns raised by suppliers and its trade body through the previous consultation process in September 2016 or the Ofgem-hosted event in October 2016. A number of the concerns raised are yet to be properly addressed. Ofgem has disregarded information provided to them by suppliers and has, instead, decided to act based on anecdotal instances of bad practice.

5. Did it make reasoned recommendation for improvement?

Insufficiently – supplier comments have not featured significantly in the arguments made.

Suppliers, Ofgem and consumer groups all share the same concerns and by working together, better solutions can be identified that deliver the intended outcomes without the unintended consequences the existing proposals are likely to deliver, specifically to vulnerable customers.

However, there does not appear to have been valid recognition of the issues suppliers face with customers who continue to avoid engagement or agree a suitable repayment for debt. Furthermore, there are no recommendations or guidance provided as to how suppliers might manage increased risks to avoid issues worsening and building on already large cost to suppliers, not to mention the growth of customers debt due to the ability to achieve a resolution being reduced or removed in some cases.

6. Any further comments?

Yes.

Implementation Approach

Ofgem sets out in the statutory consultation that they anticipate issuing decision notices later in 2017 which would see licence changes take effect 56 days later. npower would request that Ofgem seeks to understand what changes suppliers would need to make to their systems and processes based on the final drafting of the licence conditions before committing to an implementation date. From the impact assessment work to date, based on current drafting, npower will need to make changes to our billing and collections systems and our existing processes, customer communications. This is in addition to making changes to any relevant commercial agreements with third parties. Ofgem should seek to understand the implementation time needed by all suppliers once the drafting of the SLCs is finalised.

npower would also request that Ofgem clarify how any changes to policy would apply. Is it Ofgem's intention that the new SLCs would only apply to forward looking cases? I.e. suppliers would be able to operate under the rules as they were written at the point the customer entered the debt recovery journey, rather than as they are written at the end of the journey?

Sunset Clause

npower remain concerned that suppliers may still need to utilise the warrant process when switching consumers from credit to prepayment once a Smart Meter has been installed. There will also be those customers that refuse to have a Smart Meter installed or, where due to the property type, suppliers may be unable to communicate with the Smart Meter. We propose that Ofgem clarifies the legal position around suppliers' ability to remotely and without customer consent, change a Smart Meter to operate in prepayment mode.

Ends.
