



HM Coroner  
Leicester City and South  
Leicestershire  
The Town Hall  
Town Hall Square  
Leicester  
LE1 9BG

Promoting choice and value for  
all gas and electricity customers



Date: 28 November 2013

Dear Mrs Brown,

**Michael Joseph Hirrell**

Thank you for your letter dated 3 October enclosing a copy of your Regulation 28 report regarding Mr Hirrell. We are aware that you have also corresponded about this matter with npower and Energy UK, and that both will be submitting responses to you.

I have set out below the current protections in place for domestic consumers. Whilst I recognise that you may already be familiar with some of this information I consider it would be helpful to restate this for completeness. In addition to this information, I have also set out our proposals to take forward the issues identified in the report.

**1. Current protections**

**Supply licence conditions – debt recovery, and disconnection**

There are strict rules in place to protect domestic customers who may be threatened with disconnection or who are struggling to pay their energy bill. Disconnection should only be used as a last resort and we expect suppliers to actively seek out alternative solutions to disconnection wherever possible.

If a domestic customer is having difficulty in paying their gas or electricity charges, the domestic supplier must offer to recover the charges directly from social security benefits if the customer is in receipt of social security benefit or by regular instalments or via a prepayment meter. The supplier must take all reasonable steps to ascertain the customer's ability to pay and to take this into account when calculating instalments. The supplier must not disconnect a domestic premise unless it has taken reasonable steps to recover the charges.

Energy suppliers must not disconnect, in Winter (by which we mean the six months between October to March), a domestic premise where the customer is or the supplier has reason to believe is of pensionable age and lives alone or lives only with others who are also of pensionable age or under 18. Domestic suppliers must also take all reasonable steps to avoid disconnecting, in Winter, a domestic premise if the occupants include a person who is of pensionable age, disabled or chronically sick.

*The Office of Gas and Electricity Markets*

9 Millbank London SW1P 3GE Tel 020 7901 7000 Fax 020 7901 7066 [www.ofgem.gov.uk](http://www.ofgem.gov.uk)

### **Ofgem's monitoring of debt and disconnection**

Domestic gas and electricity suppliers are required to report to Ofgem every quarter giving information on their performance in relation to debt, disconnection, prepayment meters, and their services to customers in vulnerable positions. Ofgem monitors performance across all suppliers in these areas, analysing the data to identify trends and regularly meeting with suppliers to discuss issues of concern.

We report on suppliers' performance annually. I have enclosed a copy of our most recent report, published 13 November 2013, with this reply. It showed that domestic disconnections in Great Britain have fallen from 2801 in 2010 to 557 in 2012. It also showed that the majority of these disconnections occurred because the supplier was not able to fit a prepayment meter as an alternative to disconnection. We receive information from suppliers regarding domestic supplies which have been disconnected for reasons of debt or in error. Suppliers also provide information annually about the number of domestic supplies they have disconnected that should have been covered by the Safety Net. To further monitor suppliers' use of disconnection, for 2013 we expect each supplier to provide details of the process they have followed for each of the disconnections they carry out.

### **Energy UK Safety Net**

The six large domestic suppliers have agreed a voluntary code of practice – The Energy UK Safety Net - which aims to protect vulnerable domestic customers from disconnection. Through this code of practice suppliers have gone beyond the requirements of the supply licence, committing to never knowingly disconnect a vulnerable customer at any time of year, where for reasons of age, health, disability or severe financial insecurity, that customer is unable to safeguard their personal welfare or the personal welfare of other members of the household. They have also committed to reconnect customers who are subsequently identified as vulnerable as a priority and usually within 24 hours.

The Safety Net sets out how suppliers will put into practice the commitments they have made, including how suppliers will attempt to engage with customers who are at threat of disconnection. If a supplier does ultimately obtain a warrant to disconnect a domestic property they should look for any signs of vulnerability when exercising the warrant, even if there is no one in the property at that time, and where possible install a prepayment meter as an alternative to disconnection.

Where the domestic customer shares a premise with, and takes a supply from, a non-domestic premise, the Safety Net requires suppliers to ensure that their business teams are aware of the Safety Net provisions to minimise the risk that a vulnerable domestic customer is disconnected for reasons outside of their control.

The Safety Net is run by Energy UK, the trade association for the gas and electricity sector, and compliance with the Safety Net provisions is independently audited. In our Social Obligations Annual Report we stated that we expect the smaller domestic suppliers to follow the lead of the big six's commitment to not disconnect customers in vulnerable positions at any time of year. We are holding a workshop with these suppliers in January 2014 to discuss best practice in debt and disconnection.

### **Ofgem letter - disconnection of domestic consumers in business premises**

On 20 December 2012 Ofgem wrote to all non-domestic suppliers regarding their approach to non-domestic debt and disconnection, and also set out our expectations of good practice. We made clear that as part of the pre-disconnection site visit, suppliers should undertake checks to establish whether there is a shared occupancy i.e. a domestic customer shares the supply with the non-domestic customer, and to look for signs of vulnerable customer occupancy. In addition, we set our expectation that all suppliers should adopt the principles of the Safety Net in this regard. I have enclosed a copy of this letter.

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## **2. Actions following the Coroner's report**

### **Ofgem's monitoring of debt and disconnection**

We have set out above the extensive information we collect on debt and disconnection from domestic energy suppliers. Following a review of that monitoring information, we issued a formal request on 25 October to all non-domestic gas and electricity suppliers. In this we asked suppliers to provide information about the total number of disconnections on non-domestic sites where the gas or electricity supply is shared with a vulnerable domestic customer.

We have requested that this information be collected monthly by suppliers from January 2014 onwards and reported to Ofgem on a quarterly basis. We expect to receive the first data from these suppliers at the end of April 2014.

We intend to discuss with suppliers their approach to treating domestic customers in shared occupancy situations as part of our next regular meetings with them.

In the light of this case, we will ask domestic and non-domestic suppliers to report to Ofgem as soon as it becomes known to them that there has been a fatality as a consequence of a disconnection.

### **Energy UK Safety Net**

We met with Energy UK on 14 November to ask that they review the provisions of Safety Net covering the disconnection of domestic customers where they take a supply from a shared non-domestic premise. We have written to Energy UK to highlight our expectation that these provisions must be clearer to ensure that suppliers would not proceed with a disconnection of a vulnerable domestic customer in this situation. I have enclosed a copy of this letter. Energy UK has acknowledged the relevant clause in the Safety Net is not fit for the purpose and is also not reflective of suppliers' current practices.

Energy UK has committed to review this particular clause and will be writing to suppliers shortly. We understand that Energy UK will be confirming this commitment to you also. We intend to work with Energy UK as necessary as they progress their review of this clause in the Safety Net.

### **Joint letter to suppliers with Consumer Futures**

We intend to write to all non-domestic suppliers as a follow up to our letter of 20 December 2012, highlighted above. The letter will be sent jointly with the consumer body Consumer Futures, with whom we worked closely in reviewing suppliers' approaches to managing non-domestic debt and disconnection last year. We intend to give particular focus in the letter to our expectations of how non-domestic suppliers should deal with situations of shared occupancy of non-domestic premises with domestic consumers. We expect to send this letter by the beginning of December and will send a copy of this to you.

### **Npower review of its practices**

npower has provided Ofgem with an update on its review of its practices in the light of this particular case. We note that the company has made a number of changes which it has been confirmed will be permanent features of its processes. We understand that npower will be setting these out in its response to you. We have asked npower to share details of these revised processes with Energy UK to consider as part of its review of the Safety Net.

I trust that this information is helpful. Please contact me if you have any questions or would like any further information about any of the matters in my response.

Yours sincerely



Head of Consumer Affairs

Enc. Social Obligations Report 2012  
Open letter 20/12/12  
Letter to Energy UK 26/11/13





Promoting choice and value for  
all gas and electricity customers

To: non-domestic suppliers, non-domestic consumers, and their representatives, and other interested parties

[REDACTED]  
Date: 20 December 2012

### **Open letter: Non-domestic debt and disconnection - suppliers' approaches and good practice expectations**

#### **Summary**

This letter summarises our recent work reviewing suppliers' approaches to managing non-domestic debt and disconnection as part of our ongoing work in addressing issues faced by non-domestic consumers. We have undertaken this work in conjunction with Consumer Focus who will be writing separately to individual suppliers with their views and recommendations on areas of improvement to their non-domestic debt and disconnection paths.

Non-domestic customers do not have the same levels of protection on debt and disconnection as domestic consumers, who are protected through licence conditions. These licence conditions provide a number of protections where households face payment difficulty including taking into account ability to pay, the use of pre-payment meters, preventing the disconnection of vulnerable customers and the provision of information around these obligations.

Overall, we do not currently see that enforceable licence protections of this nature are necessary or desirable for non-domestic customers, where the nature of the detriment is different and where equivalent issues of vulnerability and fuel poverty do not exist. However, suppliers should treat non-domestic customers who are in payment difficulties and face disconnection fairly. Through our Retail Market Review<sup>1</sup> we noted that many small businesses have similar levels of knowledge of, and engagement in the energy market to domestic customers, and we also recognise the impact on businesses of rising energy costs in the current economic climate. However, the nature of the potential detriment that can be experienced by business customers is different to households.

We therefore consider suppliers should adopt and apply good practice in their treatment of business customers in payment difficulty and facing disconnection. This letter provides our expectations of suppliers when dealing with customers in these circumstances. Our focus has been on smaller non-domestic customers although the good practice approaches we highlight should be applied to non-domestic customers more widely where appropriate.

<sup>1</sup> <http://www.ofgem.gov.uk/markets/retmkts/rmr/protecting-businesses/pages/index.aspx>

In particular, we would expect to see suppliers applying good practice in the following areas:

- treatment of customers getting into payment difficulty;
- suppliers' disconnection paths which allow pro-active and tailored communication;
- the provision of information and signposting to third party help;
- the use of site visits;
- treatment of shared occupancy of non-domestic premises by domestic consumers;
- the way charges are applied through the disconnection process; and
- ensuring customers with smart meters are treated in the same, fair manner.

In addition, we will review the quarterly information we have been receiving from suppliers on disconnection rates, after one year's worth of data, in spring 2013, with a view to publishing this data in the future.

We consider that it is important that all suppliers understand the role of the Citizens' Advice consumer service and the Consumer Focus Extra Help Unit (EHU) which provide advice and help to small businesses in such circumstances, and to ensure that they are positively interacting with these services. We will continue to monitor cases we receive from the Citizens' Advice consumer service, the Consumer Focus Extra Help Unit, the Ombudsman and other sources to see that suppliers are applying this good practice in their approaches to non-domestic disconnection.

#### **Background and previous activity**

Ofgem wrote an Open Letter<sup>2</sup> (November 2011) in relation to non-domestic protections from the 'Spring Package', outlining the need for suppliers to meet requirements around disconnection of meters with smart functionality. It also highlighted the need for suppliers to apply good practice in the way they deal with disconnections.

In this letter we also stated that we would be monitoring, on a quarterly basis, the number of disconnections for micro- and small businesses, including where customers had meters with smart functionality and that we would review the conduct of suppliers in this area after 1 year (in Spring 2013) based on the information we receive. To date we have received data from the last three quarters.

In 2011, Consumer Focus published a set of case studies<sup>3</sup> from business customers who had contacted its EHU. The EHU continues to receive complaints from business customers facing disconnection, and is currently receiving over 50 cases a month. Consumer Focus has also provided us with information on supplier debt and disconnection paths following a request for information to suppliers.

<sup>2</sup><http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/nondomsmartmetersspringpackageopenletnov.pdf>

<sup>3</sup> <http://www.consumerfocus.org.uk/files/2011/05/Small-business-big-price.pdf>

Ofgem and Consumer Focus met both the large, and a number of smaller, suppliers on a one-to-one basis between June and September this year to discuss in more detail their approaches to non-domestic debt and disconnection.

As a result of this activity, we have identified a number of areas where suppliers should focus the development of good practice.

### **Customers in payment difficulty**

All suppliers we met stated that disconnection is seen as a last resort and that their debt paths are designed to ensure that it is avoided where possible. Suppliers stated that in cases where a customer is in payment difficulty and contacts them they would seek solutions that would avoid the need for disconnection.

We consider that suppliers should pro-actively seek to assist non-domestic customers in these circumstances. We have noted a number of suppliers have set up dedicated teams or specific training allowing for improved interaction with their non-domestic customers. We also noted the development by at least one supplier of time to pay principles covering micro-businesses where, for example, longer payment arrangements may be offered where appropriate in managing customer debt which take account of individual business' circumstances (for example through giving consideration to a business' cash flow). We welcome the development of approaches such as these. The OFT have provided guidance on debt collection<sup>4</sup> which applies to domestic consumers but we see many of the principles in it could equally be applied by suppliers in their treatment of non-domestic customers in payment difficulty.

We noted in a very limited number of cases, certain suppliers have installed meters with pre-payment functionality as a means to help business customers (at the very small end) to manage their payments. While we welcome any approaches which help customers in this way, if offered it should be appropriate to the customers' needs, is clearly understood by them, and is at their request. We will continue monitor the effectiveness of this approach.

### **Suppliers' debt and disconnection paths**

Suppliers should ensure that they are able to demonstrate the statutory requirements for notice have been met<sup>5</sup> but we would also expect suppliers to go beyond these requirements as good practice. In the information they provided, and when we met with them, suppliers showed there were a range of timescales in their overall debt and disconnection paths (based on the period from the first reminder to final disconnection).

We noted that some suppliers segmented their customers, either at acquisition or as a result of payment history, and may apply different timescales according to this segmentation. While there may be legitimate reasons for these variations, it is important that suppliers apply a dynamic process to the way they segment their customer base in terms of the treatment for debt. Suppliers should regularly review whether individual customers have been appropriately categorised and are being treated fairly as a result.

While noting that suppliers do have variations in timescales, it is important for suppliers to demonstrate that they are actively engaging with the customers within the time periods set out in their debt paths. We have noted that suppliers send letters to customers at key stages of their debt paths and these are followed up by outbound phone calls and, in some

<sup>4</sup> [http://www.ofg.gov.uk/shared\\_ofg/consultations/OFT664Rev\\_Debt\\_collection\\_q1.pdf](http://www.ofg.gov.uk/shared_ofg/consultations/OFT664Rev_Debt_collection_q1.pdf)

<sup>5</sup> Suppliers are statutorily required to give minimum of 7 days written notice ahead of disconnection or prepayment installation. That notice cannot be given until 28 days have passed since a written demand for payment was made.



cases, email and other forms of electronic communication. We consider a variety of approaches should be used by suppliers to understand their customers' circumstances and pro-actively communicate using channels which are best suited to their customers' needs. We welcome the use of a range of communication channels such as email and text messages, as they can provide effective prompts for engagement, although they should be used in addition to letters and calls.

On this basis, we consider those suppliers who had shorter debt and disconnection paths should review their actions within these paths to ensure their customer engagement demonstrates a pro-active and tailored approach to managing customers in debt.

If used at all, we would expect to see the use of direct incentives to suppliers' staff (or agents) to pursue debt only to be applied in a way which actively encourages understanding the customer' situation. Any use of such incentives should not encourage behaviours which lead to inappropriate outcomes.

### **Provision of information and signposting to third parties**

We noted that a number of suppliers apply approaches as part of their debt paths which proactively signpost to third parties who specialise in dealing with business debt advice (for example, Business Debtline).

We welcome this approach, given that the current economic climate means that businesses in energy debt, and facing disconnection, may benefit from specialist help that suppliers are not always in a position or have the ability to provide. Some suppliers had built strong working relationships with these third parties and we would encourage all suppliers to develop such relationships, with a view to embedding signposting as part of their disconnection processes.

We consider that suppliers have a role in helping customers through provision of information to help manage energy costs and payments, including the provision of energy efficiency information. This should be made generally available through websites but also provided at an appropriate time in the debt path.

### **Site visits**

Suppliers have stated that pre-disconnection site visits were an integral part of their current debt and disconnection paths. We noted suppliers often use third-party agents to undertake these visits.

We consider site visits should be part of the overall set of consumer contact with customers within the debt and disconnection path. In particular, we see a site visit as important where a customer has been hard to reach, as it allows a supplier to gain a better understanding of their circumstances, the type of premises and potential customer vulnerability at the site. As such, they should take place in circumstances both where there is a meter with non-smart, or smart, functionality, as face-to-face contact is required.

Site visits should be undertaken in a fair manner in accordance with good practice, such as providing prior notice of the visit, making it clear to the customer the visit's purpose and outcomes and not behaving in a threatening manner. The site visit should include a clear 'checklist' of issues and circumstances at the site to be completed before further action is taken. These checks should include whether there is shared occupancy and signs of vulnerable customer occupancy. This approach is equally important where suppliers use a third party agent, and suitable controls should be in place to ensure that the supplier is able to provide evidence of such checks.



### **Shared occupancy of non-domestic premises with domestic consumers**

Linked to the above, site visits should seek to identify situations where non-domestic premises have shared occupancy with domestic customers and suppliers should have processes in place, including through the site visit to do this. When we met with suppliers, they assured us that where they identified a domestic customer was resident (and sharing the supply) they would stop the process and would pursue a path which took account of these circumstances. We consider that the Energy UK Safety Net<sup>6</sup> provides a clear approach on this and would expect all suppliers to adopt these principles.

We would also expect suppliers to have approaches which identify sites within their non-domestic customer base which have domestic and/or vulnerable residents, for example care homes, and to treat them in an appropriate manner.

### **Smart functionality and remote disconnection**

When we met suppliers, we noted that they did not apply a different debt and disconnection process where a meter has smart functionality and is able to be disconnected remotely. While we are reassured that suppliers are not adopting different approaches, we note that remote disconnection does not require a warrant for entry, and the potential additional protection and opportunity for customer engagement this gives. In our 'Spring Package' Open Letter, we stated how we would expect to see suppliers dealing with smart functionality disconnections and will continue to monitor to see if further steps need to be taken to protect consumers. In the meantime, we would expect suppliers to be able to demonstrate in such cases the steps they have taken to actively engage a customer prior to remote disconnection.

### **Application of charges through the disconnection process**

We noted suppliers applied a range of charges to the customer through a disconnection process. It is important that customers have an understanding of the charges and we expect suppliers to make these charges clear to customers at the outset of the process. Charges should only reflect costs and should be proportionate in the way they are applied. Staff should have flexibility to waive charges where appropriate.

### **Next steps**

We expect suppliers to apply the good practices we have identified in this area and where these do not already exist we expect suppliers to take steps to develop them.

We will continue to monitor cases we receive from Consumer Focus, the Ombudsman and other sources to see that suppliers are applying good practice in their approaches to non-domestic disconnection. As stated we will review the information on the numbers of disconnections which we are receiving once we have an annual set of data and will contact suppliers separately on this.

Consumer Focus will be providing individual feedback to suppliers on their approaches to debt and disconnection and we will work with suppliers and Consumer Focus on identified areas for improvement. We will also review with Consumer Focus/Regulated Industries Unit the actions taken by suppliers later in 2013.

<sup>6</sup> <http://www.energy-uk.org.uk/policy/disconnection.html>

If we see evidence that suppliers are not acting in accordance with our expectations we may consider the case for further intervention. If you wish to discuss the contents of this letter further then please contact [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

**Partner – Consumer Policy and Demand Side Insight**



Making a positive difference  
for energy consumers

[REDACTED]  
Energy UK  
Charles House  
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[REDACTED]  
Date: 26 November 2013

Dear Dan

**Disconnection of domestic vulnerable consumers with a non-domestic supply – review of Energy UK Safety Net provisions**

We recently discussed the provisions of E.UK 'Safety Net' which cover the disconnection of domestic vulnerable customers from non-domestic supply. We discussed actions taken by suppliers in the context of our Open Letter on non-domestic disconnection, 20 December 2012<sup>1</sup>, and the recent Coroners' correspondence relating to the Mr Hirrell case to Ofgem and Energy UK.

I understand in your response to the Coroner you will be committing to a review of the relevant clauses of the commitments provided in the Safety Net, to take place over the coming few months. Given the Mr Hirrell case, and the potential for continued occurrence of disconnection cases where these circumstances exist, we consider this review is necessary and welcome your work on it.

Our Open Letter provided our view of best practice in this area, taking into account the approaches suppliers told us they had in place. It is important that the Safety Net reflects these approaches, including a process where suppliers stop a non-domestic disconnection in circumstances where a vulnerable domestic consumer is found to be at the premises, and to pursue the appropriate actions relating to this type of consumer. Other actions may, for example, include offering the domestic customer terms for supply. While we note that the relevant clause in the Safety Net meets the spirit of this approach, we consider that the wording should be amended to be more explicit in the expected treatment of these circumstances together with a commitment by suppliers to maintain audit trail of the actions they have taken when dealing with a case of this type.

As you know Ofgem will also be monitoring suppliers' performance in this area through the data provided by suppliers as part of its ongoing information request on non-domestic disconnections. A copy of our information request has been sent to you.

I look forward to working with you where necessary as you take forward the review of this part of the Safety Net. Following the review, it would be useful for us to consider how

<sup>1</sup> <https://www.ofgem.gov.uk/ofgem-publications/57748/non-dom-disconnection-openletter-20-12-2012.pdf>

the Safety Net provisions are promoted to non-domestic suppliers who are not signed up to them currently, or who are not E.UK members.

Yours sincerely

A large black rectangular redaction box covering the signature area.A small black rectangular redaction box covering the name of the sender.

**Senior Manager – Consumer Policy**