



Action for Warm Homes

**National Energy Action Northern Ireland's
response to the Utility Regulator's Energy
Theft Code of Practice Second Consultation**

April 2017

About NEA

NEA is the national charity working to ensure affordable energy for disadvantaged consumers. NEA's strategic aims include influencing and increasing strategic action against fuel poverty; developing and progressing solutions to improve access to energy efficiency products, advice and fuel poverty related services in UK households and enhancing knowledge and understanding of energy efficiency and fuel poverty.

NEA seeks to meet these aims through a wide range of activities including policy analysis and development to inform our campaigning work, rational and constructive dialogue with decision-makers including regulatory and consumer protection bodies, relevant Government Departments, the energy industry, local and national government and develops practical initiatives to test and demonstrate the type of energy efficiency programmes required to deliver affordable warmth. NEA's educational and training initiatives have recently won the National Ashden Award, which recognised the importance of improved knowledge and understanding of domestic energy efficiency among consumers and communities and their work to upskill the workforce across the energy industry.

Fuel Poverty in Northern Ireland

The latest Northern Ireland House Condition Survey, while carried out in 2011, indicated that 42% of all households in Northern Ireland were in fuel poverty. This by far outstrips the rest of the UK and the size and scale of the problem here makes it one of the biggest issues facing our society today.

Our Response

NEA welcomes the opportunity to respond to this second consultation. We made a number of recommendations in our initial response in 2016, and have attempted to respond without unnecessary mention of previous points made.

We believe that due to the statutory duties of the Utility Regulator (UR), you are best placed to adopt the role of adjudicator throughout the development of said procedures.

We endorse the practice and promotion of prevention which should be highly visible throughout the draft Code of Practice (CoP) for both electricity and gas. This enables households to voluntarily stop using magnets or any other tampering method. Prosecution has an expensive and traumatic impact on individuals and society and should be the last resort in the response to tackle this issue.

Many households undertaking energy theft may be struggling due to low income and a stressed household budget. Any further debt incurred will add additional strain to their circumstances. Therefore prevention is the best way forward and in the light of the anecdotal size and scale of the problem and the awareness campaign to be carried out by the Consumer Council Northern Ireland (CCNI) should help to bring about a new view of the problem through highlighting the impact of the theft including the safety implications, the potential for a criminal record and the fact that the practice is not a victimless crime. The campaign should also go hand in hand with advice provision around genuine energy efficiency/switching advice, benefit maximisation etc.

We agree that it is practical for the UR to clarify the addition of monitoring severity of energy theft and progress dealing with issues in section 3.31. This data will assist with scoping the success of the process.

It also seems that it is a sensible approach for a single set of proposals for the gas industry and timely monitoring should highlight any need to change this proposal.

Vulnerability

Determining a customer's vulnerability can be complex and the customer's age, disability and chronic sickness are not always initially apparent. As an example, vulnerability can be learning disability or other mental health issues not obvious from one meeting. It is important that the policy on vulnerability is not static as the definition incorporates a wide range of scenarios. The nature of vulnerability therefore requires a flexible response. Difficulties for vulnerable customers can include comprehension, communicating and dealing with official paperwork. As with other debt collection policies, it is good practice for frontline staff to be trained not just in disability awareness but training that reflects the types of situations they will be dealing with.

Staff should be also equipped to deal with customers impacted with sudden distress. A customer found guilty of energy theft (especially in cases of ignorance) will have to process the implications and be provided with proper advice and support.

We are also pleased that vulnerable customers can be identified even if they are not on the critical care register. There are likely to be numerous vulnerable customers who fall under this category.

Section 5.20 (page 51) states that ~~£~~Consideration must also be given to any member of the household that is defined as vulnerable. This is clearly outlined in the revised proposals, however, the actual draft CoP for both gas and electricity focus only on the customer's vulnerability and makes no reference to other household members. We feel that this should be made clearer in that other household members not just the bill payer should be considered in the round.

Liability

The CoP section 5.16 Outcome of investigation into theft of electricity or gas makes reference to ~~£~~culpable negligence. We are interested in how this is defined in real terms. As we mentioned in our previous response, a client may be advised wrongly

by a third party supplier that, for example, a magnet is a reputable energy efficiency device. We are therefore interested in finding out more on the standard industry definition for both electricity and gas. This could also include cases where a different householder other than the bill payer tampered with the meter.

It would be useful to obtain current industry policy as the revised proposals do not contain this detail. Whilst we acknowledge that the UR states in section 2.59 (page 24), that it would be ~~not~~ appropriate for the principles in the Energy Theft CoP to set out this detail~~+~~, it will be an important issue within the remit of communication with customers, and the rolling out of best practise.

Dealing with unpaid energy usage

As with energy debt in general, it is important to retain the principle of the customer being in a position to pay back the estimated unpaid energy usage as this could lead to a potential poverty cycle. We therefore believe a sensible proposal should be adopted. Whilst this element has been delegated to the individual distribution network operators (DNO) in line with industry procedures, it would be helpful if the CoP contained more detail on this issue. Will there be a cap on the amount a householder has to repay or a cap on the amount recouped per vend?

We are pleased to see that ability to pay is included in section 5.32 of the UR~~s~~ revised proposals and cross referenced with the CoP on payment of bills. As with standard energy debts, it would be mutually beneficial for all parties to strike an agreement on a realistic repayment plan which would also ultimately prevent the prosecution.

Disconnection

The revised proposals section 5.28 states that disconnection should only be a last resort, however due to safety issues it may be necessary. The draft electricity CoP section 5.15 refers to the statutory disconnection powers on ~~u~~reasonable evidence

that theft has occurred. We would like to seek clarification on standard practise for an electricity or gas disconnection.

We recommend there should be some form of reiteration within the CoP regarding cases where it is necessary to disconnect. We note that the document states in section 2.116 that in working practice electricity is not normally disconnected, only gas. Therefore we would also like to seek to clarification on disconnection. Should this only be considered where the meter is damaged for safety reasons?

We note the recommendation that heaters will be provided for vulnerable customers in instances where the gas is disconnected. Gas theft is significantly lower than electricity and while safety is paramount; consideration should be given on a case by case basis for retaining supply unless it is wholly unsafe to do so.

Calculation of costs

The calculation of the cost of the unpaid energy usage is not described in any detail in section 5.19 of the draft codes, there is a statement within both codes that the calculation should be clear and transparent, and we would be interested in finding out how the DNOs calculate how many units have been used and if there are estimates based on real time consumption. We are also interested in retrospective units and the basis for estimating timescales of unit theft.

Switching

We fail to see why objecting to switching has any bearing on the customer's debt liability. If a customer moves from another supplier they will still be pursued for the debt, however, the fact that they are switching should have no impact on the supplier. That said, we believe that it is prudent to make no changes (as outlined in paragraph 2.131) until a subsequent industry meeting takes place. We believe that consumer advocacy organisations including NEA and CCNI should also play a part in this discussion.

We also note that there are significant differences in the scale of gas and electricity switching as evidenced in the UR's Quarterly Transparency Reports, so basing a policy on practice within the gas industry should not necessarily read across to electricity.

Communication with consumers

This is one of the most important elements within the CoP, and it is clearly referenced throughout both gas and electricity drafts. We also welcome the inclusion of providing information on further sources of assistance for example advice and support. This is already operating within the industry in relation to debt, and it is important that even in cases of theft, customers should receive help and support. In many cases low income will have been the trigger to motivate the practice in the first instance.

There are a complex set of circumstances to navigate in relation to this CoP, and as such, it is fundamental that the UR monitor the out workings of the industry response. We look forward to working with the UR and CCNI in the role out of the awareness campaign, and we will work through our local networks to support the cessation of the practice, and mitigate the circumstances which can sometimes lead individuals to take such action.

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