



## *Action for Warm Homes*

Northern Ireland

**Response by National Energy Action Northern Ireland to the Utility Regulators Approach to Enforcement: Consultation on revising our enforcement procedure and financial penalties policy**

**March 2018**

## About NEA

NEA is the national charity working to secure affordable warmth for disadvantaged energy 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. Our 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 'up skill' the workforce across the energy industry.

Based on the most recent House Condition Survey findings in 2011, Northern Ireland currently has the highest rate of fuel poverty in UK at 42%. It is estimated that there are approximately 33,000 households in extreme fuel poverty spending over 25% of their total income to heat their homes. One in five households are living in relative poverty and 19% of working age adults in the private rented sector spend more than a third of their income on housing<sup>1</sup>.

The cold kills, and between August 2015 – July 2016 there were 640 excess winter deaths in Northern Ireland.

Additionally, and unique to Northern Ireland, 68% of all households are reliant on home heating oil, a non regulated fuel which leaves us vulnerable to the vagaries of all this economic. Specifically, in relation to Brexit, the falling pound and the recent increase in wholesale costs will all ultimately impact on all fuels but the almost immediate impact on oil prices can be catastrophic and will put severe hardship on individuals and families. Recent increases have demonstrated that already, prices are rising steadily.

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<sup>1</sup> Joseph Rowntree Foundation, Poverty in Northern Ireland, 2018

NEA believe that the improved insulation and heating standards which are provided by schemes and programmes such as the Affordable Warmth Scheme and the Northern Ireland Sustainable Energy Programme (NISEP) are the most rational and sustainable means of ensuring affordable warmth. Any opportunity to promote, improve and enhance these schemes will be one the best ways to support households in fuel poverty.

## **Our Response**

NEA NI welcomes the opportunity to respond to this consultation. Whilst fortunately it is uncommon for the enforcement process to be fully actioned in Northern Ireland, it is commendable for the Utility Regulator (UR) to include this piece of work within their 2017/18 forward work programme and as part of the Consumer Protection Strategy.

The document clearly sets out the main amendments to the new procedure and additions, which should prove useful to new and existing companies on what to expect when being investigated or having enforcement action. It also points out elements similar to that of GB for reference.

It is understandable that the aims of enforcement are there for ultimately consumer protection but also as a deterrent and the principles of the policy are clearly presented.

### ***Concept of alternative dispute***

Alternative resolution as a means of resolving a matter before enforcement is already a popular technique adopted in various scenarios from employment to child support. We agree that whilst operated on a case-by-case basis, it is suitable for situations, as the document states, in 'low impact less significant cases'. It allows for a swift efficient resolution and is cost efficient. We agree that the prioritisation principles should be used and are an effective tool for measuring the gravity of the case.

### ***Concept of settlement***

The concept of settlement is in all parties' interests - the company, consumers and the regulator itself. The early settlement concludes the case and there is the opportunity for the penalty to be reduced if settled early. The settlement can then be used as a charitable donation if it has not reached the imposition of a financial penalty. Customers can then be directly supported through

the voluntary redress payments and/or compensation instead of resultant capital going to treasury.

With regard to how settlements are distributed in general, the document is not overly clear on the allocation of payments. NEA would propose some options to deliver maximum positive impact for energy consumers. In cases where it is not possible to identify consumers who have suffered detriment, resultant capital should be spent on programmes directly benefitting households such as energy efficiency and advice, and indirectly through community engagement and awareness raising within communities. This could include solutions to fuel poverty and fill gaps in statutory provision to for example; break the cycle of hospital readmissions.

Such investment can also help consumers re-engage in a positive way about energy and at the same time address widespread disengagement. Where this is not feasible, support for vulnerable consumers must be a key objective and we support a wider vision of addressing consumer disengagement, which would complement existing programmes and address gaps in provision making them self-sustaining models.

### ***Proposed settlement windows and discounts***

As the document states, the approach on penalties is akin to OFGEM and are explicitly quantified; we are pleased to see that detriment to customers is remedied while at the same time the company does not benefit financially.

Specific banding offers a fairer process and reflects the factors such as the seriousness of the contravention accordingly.

### ***Publication***

No publication of facts will be made in a minor case, quick resolution or no case found. We understand that from the point before opening a case (Revised Flowchart) any procedure subsequent to this will be published. We also appreciate that companies are sensitive to the publicity and consequences of publicising such details. However, this is in keeping with the common practice of accountability and transparency. We note that the Utility Regulator does take account of confidentiality in certain cases, and we would also query whether the data protection issues would largely be affected by the forthcoming General Data Protection Regulations in May.

This is similar to the existing policy within OFGEM and whilst Northern Ireland is on a much smaller scale, it adds to the deterrence of non-compliance. Fortunately enforcement levels remain relatively low

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