

Business, Energy and Industrial Strategy Committee

Justice Committee

Oral evidence: Prepayment meters: warrants and
forced installation, HC 1209

Tuesday 14 March 2023

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Members present:

Business, Energy and Industrial Strategy Committee: Darren Jones (Chair); Bim Afolami; Alan Brown; Mark Jenkinson; Ian Lavery; and Mark Pawsey.

Justice Committee: Sir Robert Neill (Chair); Janet Daby; Maria Eagle; Karl Turner.

Questions 191-221

Witnesses

[IV](#): Jonathan Brearley, Chief Executive, Ofgem, Neil Lawrence, Director of Retail, Ofgem, and Cathryn Scott, Director of Enforcement and Emerging Issues, Ofgem.

Examination of witnesses

Witnesses: Jonathan Brearley, Neil Lawrence and Cathryn Scott.

Q191 Chair (Darren Jones): Welcome to Jonathan Brearley, the chief executive of the energy regulator Ofgem; Neil Lawrence, the director of retail at Ofgem; and Cathryn Scott, the director of enforcement and emerging issues at Ofgem. There should be some new cups and water for you. I am always conscious that we have you on last, which means you get less time with us. I do not want you to feel left out, so we will try to make a quick bit of progress.

Mr Brearley, let me come to you straightaway. The thing that I am troubled by after the evidence today is that, on the one hand, we have this *Times* exposé, which shows completely egregious examples of forcible entry into vulnerable people's homes to install prepayment meters, which will end up turning off their electricity and gas because they cannot afford to pay their bills; then we had the bailiffs, Arvato, saying they were just doing what British Gas or the energy suppliers told them to do; and then we had British Gas and the energy suppliers telling us that they do not know whether something has gone wrong or not, but they are doing an investigation and were sorry to see it happen. It looks like everyone is either blaming each other or trying not to be up front about what seems to be a very clear breach of the licence conditions. What is your initial view on that?

Jonathan Brearley: Look, we are deeply concerned about not only the reports in *The Times*, but reports that have been appearing for some time about the behaviour of energy companies with regard to the forced installation of prepayment meters. To step back from this, we are working through one of the biggest gas crises we have had in living memory. Families are under financial pressure that has not been experienced in the energy system in my memory. Even with Government support paying almost a third of our bills, people are seeing their bills rising by roughly 250% compared to a year and a half ago.

We have been clear throughout the last year that the sector's focus needs to be on its most vulnerable customers. I am sure we will come to what we thought about British Gas in a moment, but the reason we launched those market compliance reviews is because our message was really simple: if we are to have a successful and profitable energy industry, they need to look after their vulnerable customers. We think our rules are clear. There is a lot of judgment when you think about whether or not it is safe and practicable to put a prepayment meter in someone's home—but we think the principles are clear. We wrote to the suppliers in November to make sure they were clear on our rules, and we launched a further compliance review in January that will look precisely at the systems and processes, and the outcomes for customers who have had prepayment meters installed.



HOUSE OF COMMONS

Alongside that, we are checking whether we need to tighten those rules, and we are working with the industry and consumer groups on a new code of practice, which we expect to be in place—with broad support—by the end of March. But I need to be clear with this Committee: our priority is making sure that this industry gets its act in order. Therefore, they will not be restarting forced installation of prepayment meters at the end of March, and will only do so when, and if, they can establish that they are acting in accordance with that new code of practice. We are deeply concerned about this. We have investigations and compliance reviews ongoing, but our message to Chris and all the industry is: you need to fix things now; you don't need to wait for our reviews to conclude.

Q192 Chair (Darren Jones): That is very welcome, but in 2018—admittedly, before you were running Ofgem—Ofgem took action on this issue. I have the copy of the notice from 2018, which says Ofgem will “take tough action” if the suppliers fail to treat their vulnerable customers in the right way. Is this not symptomatic of the comments from Energy UK last time that the energy suppliers look at Ofgem and just think, “You’re not really going to enforce the rules, so we can do what we like”?

Jonathan Brearley: You know that following the reviews we had of Oxera, we have completely changed the way we do compliance. In the past, in 2018-19, we relied on complaints, we resolved the complaints and we did it pretty reactively. The compliance reviews we launched this year were proactively looking across the sector and its behaviour and responding to those. They have made big changes, which I am happy to come to.

Equally, those are not going to be all the answers. We always rely on others, including complaints and whistleblowers, to make us aware of what is happening. That is what happened in the case of British Gas. The reason why we suspended activity after *The Times* investigation was in part because of some of the cases you have raised, but also because of the behaviour of the operatives involved.

We do not just have licence conditions on the forced installation of prepayment meters. We are very clear that vulnerable customers need to be treated fairly, and that means they need to be treated with respect.

Q193 Chair (Darren Jones): Thank you. In the latest market compliance review, it is more than slightly concerning, quite frankly, that you did a review of the energy suppliers and how they dealt with their vulnerable customers and British Gas came out as the exemplar in the industry. If *The Times* stories are all correct, how can that possibly be the best of all the energy suppliers? How did that market compliance review go so wrong?

Jonathan Brearley: When we did the vulnerability compliance review, there were two—one on ability to pay and one on vulnerability. We did identify weaknesses with British Gas, particularly around their relationship with their third parties.



HOUSE OF COMMONS

Throughout that process, we heard complaints around the forced installation of prepayment meters, and that is why we are looking more closely at it now. Clearly, the picture we have from British Gas and the behaviour of Arvato simply do not match. That is why we have launched the investigation, and that is why we will unearth what has happened.

To be clear, those compliance reviews identified a huge number of issues that the industry needs to deal with. I was saying publicly in November that the industry needs to up its game in the way it treats vulnerable customers and, indeed, the way we have customer service in general. For example, 900,000 direct debits have had to be reassessed to ensure they are set at the right level. We have made sure across the piece that companies are better at identifying vulnerable customers and ensuring that fits these processes, but also that they are put on the priority services register.

We have also ensured that suppliers give additional credit. When prepayment meters are at the point that they self-disconnect, they should be offered extra credit by their suppliers. I know Bill complains about the result, but Utilita were not doing that. They accepted that, and that is why they paid around £850,000 in redress.

I can continue with the examples we have, but I need to let the suppliers understand one thing. If we go back to Storm Arwen last year and the behaviour of the networks, it cost them £10 million, because they were not proactive enough and they were not protecting their vulnerable customers.

If we find through this compliance review—or, indeed, if we find in general—that suppliers do not up their game, those fines will be levied here. Chris is right that the sector is in recovery from a massive gas crisis over the last two years, but it would be a shame if a sector that does need to return to a reasonable profitability is stopped from doing so by Ofgem's enforcement action because we are forced to demonstrate to companies that it will cost them more if they do not follow the rules.

Q194 Chair (Darren Jones): Thank you. In the latest market compliance review, I can see you are examining a number of issues, including internal processes and controls and the flow of management information.

Were you concerned by the answers we heard earlier—just using British Gas as an example, but they were the witness—that their audit and risk committee, the board, did not seem to be getting the information about the alleged breaches of the licence conditions? Surely there is a problem about the corporate governance of these suppliers, isn't there?

Neil Lawrence: Just to reiterate, we do ask suppliers for their assurance records when we do market compliance reviews, and we will ask for any assurance records through this as well as doing the substantive testing. We think it is really important that we understand how companies are set up at the top half but also the experiences that customers are receiving on the ground. Clearly, there has been a mismatch here from the previous review, as Jonathan outlined too.



HOUSE OF COMMONS

Q195 **Chair (Darren Jones):** So you will look at the papers that have gone to the audit and risk committee and you will be able to see yourselves whether this issue has been raised or not.

Neil Lawrence: Absolutely.

Q196 **Chair (Darren Jones):** A very last thing from me: can we please change the language? It is not “self-disconnection”. It is not someone actively choosing to turn off their electricity or gas; it is that they are not able to pay the bill and the supplier turns it off. If we can change just one simple thing in the changes ahead, I think we need to change the language around self-disconnection.

Jonathan Brearley: I think that is absolutely right.

Q197 **Bim Afolami:** Mr Brearley, did anybody warn you—or rather anybody who works for you in Ofgem—that maybe with British Gas there was a problem, before any public press reports or anything came out?

Jonathan Brearley: We had extensive conversation with consumer groups, which were warning us about behaviour across the industry, actually; it was not necessarily targeted on British Gas. In fact, before I came in front of this Committee last time, we spent time with both the companies and the consumer groups to identify what the issue was, and that led to the compliance review, because that is how we understand and get the evidence around behaviour, but it also led us to look again at the code of practice, to make sure that companies were clear on the rules.

I am not pretending that these are simple judgments; trying to understand the vulnerability of a family who may not want to talk to you is complex, but it is the supplier’s responsibility to deliver against that.

Q198 **Bim Afolami:** I appreciate that it is the pot calling the kettle black when we say we talk about a lot of reviews—politicians like reviews as much as Ofgem. You have often said you have seen evidence, you have heard things, and then you do a review and that gets to the heart of the problem—and not just in this area; you can name lots of other areas, I am sure. Do you think, as a process, that is really adequate? My question for you is: to what extent are you monitoring real-time information and data so that you don’t need a review and you can stamp things out where they go wrong?

Jonathan Brearley: We do have data monitoring—again, Neil can expand on that—but what we are doing here, to establish the evidence on what happened, is to look at the way in which companies have behaved, the way in which they have treated customers and, indeed, the way in which their officers have treated customers. You can’t do that without an extensive process that looks at the behaviours involved. Last week, we launched a partnership with Citizens Advice to make sure that we are not just getting the companies’ paperwork around this—it comes back to the questions in the previous session—we are going to hear directly from customers, and customer experiences. That does take time.

Neil Lawrence: Just to add to what Jonathan has said, we absolutely are improving our monitoring functions—

Q199 **Bim Afolami:** What currently are the monitoring functions?

Neil Lawrence: We receive a range of reports on a monthly and quarterly basis from suppliers across the market—that's domestic and B2B—and we use that to make our risk assessment of where things are going wrong. We match that with reports that we get from the consumer and charity groups; we meet them on a monthly basis and they report issues to us. We get some whistleblowing. In addition to that, we do some monitoring of social media to really get an understanding of what is going on in the market.

We recognise that that is a journey. We have changed our operating model in Ofgem to move to a professions-based model and to invest in those resources and the different capabilities, such as digital, to make those processes easier, so that we can get to the heart of the matter. The change of approach to the compliance enforcement strategy of going to market compliance reviews is proactive, so we are looking at those and, across the market now, we are identifying things that we want more information on, and we are challenging the suppliers to up their game. If we continue to do that process, we may need to go more in-depth. I appreciate that it may need more sample testing, more substantive testing; it may be more invasive. But when we get to the end of that process, we will hope to improve the standards right the way across the industry—

Q200 **Bim Afolami:** If that process works well, you won't actually need to be asking the suppliers constantly for these reports; you should just know things, and that should make everybody's life a lot easier.

I was very struck, Mr Brearley, by your comment that effectively, most people in this industry aren't making money in the retail market. Obviously, there has been a price shock. That is not unique to us in the United Kingdom; it is happening all over Europe. How do you see us getting to an equilibrium where we have businesses that make a reasonable profit at the same time as fewer people being forced into the terrible situations that we have heard about today, over the last couple of hours. I am not asking you about the process of getting there, but what does that world look like?

Jonathan Brearley: I have said to our board that there are three things we need to do with the retail sector. The first, as you say, is to return it to reasonable profitability; we cannot create companies without sufficient investment behind them. The second is to move them to a more financially resilient place, certainly than they were in a year ago, and we have made a great deal of progress on doing that. But neither of those two things could or should happen without service standards improving. I go a bit further than simply talking about vulnerable customers—we think service standards need to increase across the board.



HOUSE OF COMMONS

Let me give you one example of our compliance reviews last year. At E.ON, 50% of calls are dropped before they are answered. If you are a vulnerable customer, how do you tell your company you are vulnerable if you can't get through on the phone? So my view is that those three things go together. The deal with the industry is that we will continue to amend the price cap—we have made significant changes to the way it works—and we will be monitoring and maintaining financial resilience, but the industry as a whole needs to improve its standards.

Q201 **Bim Afolami:** I will ask one last question, Chair, if I may. Which regulatory changes, if any, are required to get to that world that you have just outlined?

Jonathan Brearley: I think the compliance reviews that we have—the way in which we proactively check across the sector—should drive up standards. I am interested, coming back to your previous question, in whether there are some automatic ways that you can build in financial incentives for good service standards, but it is my belief that, by doing that and by continuing to run these reviews—they are not one-off; they should be over time and, as you say, accompanied by real data—we will be able to move the sector to an equilibrium that I think works for everyone. However, to do that, we need the suppliers to take this seriously.

The other thing that I would say though, which you have heard me say publicly before, is that, behind this problem, there is a huge problem of affordability. The Government have put in huge amounts of support over the past six months. In August, we were talking of prices that might be £5,000 or £6,000 right now. But, the simple fact is that if you are low income, if you are a high energy user, if you have a child with a disability who relies on electricity for their equipment, or you live in a draughty social-housing home, your energy bill is extremely difficult to afford.

If we don't tackle that together, it is very hard to create the rules and system around it that will get us to the place that you are describing. That is why we are keen to work with Government on a social tariff—or something else—that will address that problem.

Q202 **Chair (Darren Jones):** Very quickly, Neil Lawrence, can I just check that I correctly understood your answer to Bim Afolami about the compliance reviews? I think you were acknowledging that you are moving from a process where you were originally looking at processes—so, “What is the flow of decision making in the business? What are your policy documents?” and almost ticking the boxes—to looking more at outcomes, with customer engagement. I think that was an acknowledgment that, in your previous market compliance reviews, you were not that focused on outcomes. Is that right?

Neil Lawrence: We were focused on outcomes in some of the compliance reviews. As I said, the direct debit review clearly made some substantial improvements on outcomes, but we recognise that the process is new. We are evolving the process and are doing more work in this compliance



HOUSE OF COMMONS

review on prepayment to look at consumer outcomes. Absolutely, we support the use of the consumer line with Citizens Advice. We may use that again, for future reviews into anything else, to collect that information and data, as we evolve the process, to give us better confidence in what the suppliers are ultimately doing to protect consumers.

Jonathan Brearley: Can I just say one thing, Chair, before we move on? One thing that I need to be open and honest with this Committee about is that, with all of this compliance work, even if it is perfect—and we accept that it is an evolving sort of process—we are not going to capture everything that happens within companies. There will always be behaviours and instances that are outside of our ability to look at. That is why we must retain the reactive, as well as proactive, function.

Chair (Darren Jones): Thank you. We have a quick supplementary question from Karl Turner.

Q203 **Karl Turner:** Very briefly Chair, thank you. You say that 50% of the calls are dropped, so that is people who are trying to contact and unfortunately give up in the end. Can you tell me whether those calls are premium rate or free?

Neil Lawrence: I would need to confirm that. My understanding is that they may well be free, but we will write back to you and confirm that, because I cannot answer for certain.

Karl Turner: I think I am right in saying that those calls are 0808 numbers, so they are free, but my information is that that is only from a landline.

Neil Lawrence: We will come back to you and give you that information.

Karl Turner: I am grateful. Thank you, Chair.

Q204 **Alan Brown:** Do you agree with Citizens Advice that moving customers to prepayment meters is just a way for suppliers to disconnect them without breaking the rules?

Jonathan Brearley: I do not accept that that is necessarily what is happening. I have spoken to a lot of customers on prepayment meters—in fact, I have spoken to a lot of customers who are struggling to pay their bills who prefer it as a payment method.

Just to clarify things, if you look at a dual fuel bill right now, today, it is slightly more expensive—well, it is more expensive than it is for direct debit, for example, and I expect that this Committee have seen the reports in the press about what may happen tomorrow—but customers still prefer it because it gives them direct control. That is not everybody, but some customers choose it because they say—

Q205 **Alan Brown:** How many customers do you talk to? You say you speak to customers.



HOUSE OF COMMONS

Jonathan Brearley: I have spoken to a double figure of customers who have said to me that they prefer this system. I am not saying that that is right for everybody, but I think there is an important point here that, for some customers, particularly if this is smart prepay, which is something that we should talk about here, they prefer to have that system because it allows them to say, "I'm going to allocate this much to my energy this week or this month." For some people, that is really important. It is very hard to do that with a—

Q206 **Alan Brown:** What checks does Ofgem make, or have companies make, that, once people are forced on to a prepayment meter, they are not then effectively cut off, and that they are still able to access heating and able to heat their homes?

Jonathan Brearley: We have rules that say suppliers need to be proactive about people who get cut off when their credit runs out. They need to respond. On the rules around that, they need to offer additional credit to customers when that situation occurs. That is limited. It cannot be unending, but suppliers should proactively contact their customers.

Q207 **Alan Brown:** What does that proactive approach look like? What should companies do when somebody is on a prepayment meter? It is £10 to put money back in.

Jonathan Brearley: You have just given a pen portrait. You have someone on a smart meter. You can see that they have been disconnected because they have not put the credit on that allows them to use the energy they need. You should be contacting them. You should be proactively trying to link them with charities and debt advice to make sure they can begin to find ways to manage their bills. I have seen good suppliers sit down with a customer and look at their energy use and say, "What can we do differently to reduce the bill?" You should offer them additional support credit—extra credit to help them manage until, for example, their benefits get repaid or their monthly pay comes in. Those are things that should be done.

Q208 **Alan Brown:** Are you making sure that all these checks have been undertaken?

Jonathan Brearley: Neil might want to comment on this, but that is part of our compliance process.

Neil Lawrence: We get the data on customers who disconnect themselves. We are monitoring that information. Later this year we might look at those issues in more depth, in line with our plans around market compliance reviews, but we have—

Q209 **Alan Brown:** People on prepayment meters is the big topic of the day, and more and more people are getting forced into prepayment meters. We might review this further.

Jonathan Brearley: To expand on where we have got to on the code of practice, we started the discussion first of all thinking it was a conversation about who this should apply to. There are three areas where



HOUSE OF COMMONS

we are going to reset expectations. As I say, it will not start until we are confident that they are being met. The first is around how you interpret "safe and practicable". Which households could this or should this apply to? The second category is how, which will define much more clearly the sorts of teams you have in place when they go to install prepayment meters.

The third category, which I think you were alluding to, is what happens afterwards. What is the aftercare? If you imagine you have a vulnerable family in extremely difficult circumstances, who have a prepayment meter for the first time, we want to make sure there is an entire care package around that family that focuses on their needs. Critical to that and something that we are pushing as far as we can within the existing law is the use of a smart prepayment meter. It is much more effective, much more efficient and much easier for a company to offer support when smart prepay is installed compared with traditional meters.

Neil Lawrence: Can I add something to follow up on Jonathan? To refer to your question, what we want suppliers to do is those checks, because they are in the licence conditions, anyway. It should not take Ofgem to come along to change the behaviour. We will do the checks and the compliance reviews, but ultimately the suppliers are responsible for their licence conditions, and we are asking them to act now.

Q210 **Alan Brown:** Have there been any concerns about whether that has happened or not? You said you had already challenged the suppliers to up their game before. Can you challenge them to up their game to make sure, with the increase in prepayment meters, people are able to access energy and not get cut off?

Jonathan Brearley: We continue to engage with suppliers on the way they look after vulnerable customers as a whole and the things they should do as a supplier to identify vulnerabilities, to make sure people do not get to the crisis point where a prepayment meter is installed. There is a set of things that they should do. They need to identify customers' vulnerabilities, identify when they are struggling to pay, try to get them on to an affordable repayment plan, try to make sure they have access to help and advice, and try to help them manage their energy use. We expect suppliers to do a whole set of things around that, and those are the sorts of things we monitor.

To come back to Neil's point, it should not take the regulator to check every single detail of every single supplier all the time. Suppliers should be doing that automatically. If they are not, we will have to send a very strong signal, and there is only one way to do that: issue fines.

Alan Brown: Cathryn?

Cathryn Scott: We did that—Jonathan alluded to it already. Last year we made a couple of orders against companies who were not complying with the rules and were not offering additional support credit.

Q211 **Alan Brown:** What was the outcome?



HOUSE OF COMMONS

Cathryn Scott: In that case they changed their policies and processes, and they paid compensation to customers and a payment to our redress fund of about £850,000.

Q212 **Alan Brown:** Jonathan, you alluded to standing charges. Who has pushed for a change to the unfair higher standing charges that are applied to prepayment meters?

Jonathan Brearley: We are examining all of the costs around prepayment meters. We are looking at ways to—

Q213 **Alan Brown:** I have asked you about this before. Is Ofgem driving this? Is it coming from Government?

Jonathan Brearley: We are driving this. Clearly, there have been reports about what the Government may do in the interim. The problem we have is that the method we will find to equalise the cost of prepayment meters versus direct debit, for example, will be around looking at the underlying cost structure. The problem with that—this is a frustrating answer for me—is that you have to go through the industry governance processes, but we hope that there will be a way of bridging that and delivering something quite quickly.

Q214 **Alan Brown:** What engagement have you had with the Government on a potential social tariff since you last gave evidence?

Jonathan Brearley: We have a lot of engagement with Government on pricing regulation in general, including a social tariff, but I sit here before you saying the same as last time: this is fundamental to getting at the heart of the underlying problem, which is the affordability right now for many families.

Q215 **Alan Brown:** And do you think the social tariff is a good way to go?

Jonathan Brearley: My view is that I think I have gone as far as I can as a regulator. I think we should explore it, and it is a good option. We need that or something else, but really it is up to the politicians.

Chair (Darren Jones): Lastly, we will hear from Sir Bob Neill.

Q216 **Chair (Sir Robert Neill):** The existing law in relation to the granting of warrants very heavily depends upon the court, with virtually no discretion, accepting the accuracy of that which is said by the energy supplier or their agents. Is that a satisfactory state of affairs?

Jonathan Brearley: I think, as you are aware, it is difficult for a regulator to comment on the courts in general, but let me put it this way. From afar, and without offering advice to or influencing the courts, it seems to me that the role of the courts is not clear. I think it would help all of us if that were clarified in law. The new energy Department plus the Ministry of Justice have to prioritise what they do, and there is a whole set of things that people like us are bidding for in the Energy Bill, but it would be helpful if that were clarified.

Q217 **Chair (Sir Robert Neill):** The 1954 Act is very old.

Jonathan Brearley: It is, and very unqualified.

Q218 **Chair (Sir Robert Neill):** In terms of ensuring the accuracy of the information that is given to the courts, many of us think you are right: let's look at the 1954 Act and the tests. Would you regard it as something where, as regulator, you would want to take action against a supplier who did not have adequate systems in place to ensure that they or their agents provided accurate and reliable information to the courts under the existing law?

Jonathan Brearley: Look, we have our set of rules and regulations around this. We have compliance processes around this. We would need to consider, with the courts, what the appropriate role for Ofgem is. The only thing I highlight is that getting in between, in effect, a witness and a judge in court is a complex issue, but we would be happy to look at it.

Q219 **Chair (Sir Robert Neill):** I understand, but it is clearly an issue.

Jonathan Brearley: Absolutely, it is. I would start from the basics: what are the courts expected to establish and, on that basis, what the best way of establishing that?

Chair (Sir Robert Neill): Thank you very much.

Q220 **Chair (Darren Jones):** Lastly, in response to the story in *The Times*, I think, Ofgem instructed suppliers to start to review the forced installations of prepayment meters in households, to see whether they needed to be reversed and compensated for. Are you actively monitoring those reviews? Have people already started to have them removed and be compensated?

Jonathan Brearley: Suppliers are reporting back to us. They are actively looking at this. We don't have figures for you yet, but as we issue the new code of practice, we will ask companies to look back at the prepayment meters they have installed and then report back to us.

Q221 **Chair (Darren Jones):** Often people watching the Committee, when we have shone a light on unacceptable corporate behaviour in this country, will say to us, "What happens as a consequence?" Can you be really clear with the Committee about what you will do if you find breaches of licence conditions?

Jonathan Brearley: The principle is that you fix the problem, you compensate someone who is affected, and we have discretion around, in a sense, the incentive effect across the industry. In this case, I would imagine, without prejudice, etc. that that means offering restitution—change the meter that was installed, although some people may want to keep it—and offering compensation. If this is systemic and widespread, we will be fining the companies involved.

Chair (Darren Jones): Thank you. That brings us to the end of the session. I am not sure whether this is good news or not, but I think this is probably the last time that we will interact on energy policy—certainly with me in the Chair—because of the changes that will be coming to the



HOUSE OF COMMONS

Committee in the next few weeks, so I thank all of you for your contributions and your work with the Committee over the past few years.