

Energy Theft Codes of Practice

UR Decision Paper
20 March 2018



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportionate, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

Energy theft can have serious safety consequences and the value of the energy stolen is paid for by other domestic consumers within their bills, increasing the costs for all energy consumers. Energy theft is a criminal offence and may result in prosecution and a criminal record for consumers involved in this illegal activity.

The Utility Regulator (“UR”) therefore requires all regulated energy companies to follow best practice procedures to prevent and handle energy theft, and has now finalised an Energy Theft Code of Practice (“Energy Theft CoP”) to increase protection for consumers. This project forms part of the UR’s Consumer Protection Strategy issued in 2016. This paper provides information on the final decisions, and the timeframes for suppliers and network operators, in both the electricity and gas sectors, to become compliant with the new Energy Theft CoP.

Supplier and network operator licences will be modified to include a condition to comply with the Energy Theft CoP. To ensure compliance with the licence condition, suppliers and distribution network operators in gas and electricity are required to establish and implement detailed industry procedures to prevent, detect, investigate and manage the outcome of the investigation into energy theft.

Audience

This consultation paper will be of interest to gas and electricity suppliers, distribution companies and organisations representing consumer interests.

Consumer impact

This paper includes the UR’s decisions on the implementation of the Energy Theft CoP. The final CoP will promote best practice and protect consumers from the safety issues and costs related to energy theft.

Executive Summary

The UR published its 2016/2017 Forward Work Plan in March 2016. The Forward Work Plan includes the implementation of a five-year Consumer Protection Strategy. One of the priorities of the Consumer Protection Strategy is to implement Energy Theft Codes of Practice (CoP).

The overall aim of the Energy Theft CoP is to protect consumers from the serious safety issues and costs related to energy theft. Energy theft is also a criminal offence and may result in prosecution and a criminal record for consumers involved in this illegal activity.

To do this we propose to use the Energy Theft CoP to provide transparency on the obligations on electricity and gas distribution network operators and suppliers to work together to establish and implement detailed and best-practice industry procedures to prevent, detect, investigate, and manage the outcome of investigation into, energy theft.

This paper follows on from the first and second consultation papers published in July 2016 and February 2017. We have read through all responses to the second consultation and although we cannot respond to each one individually, the comments have been considered and contributed to the decisions set out in this paper.

Respondents to the second consultation were largely supportive of the amendments to the high level design, governance and compliance arrangements that were set out in the second consultation.

Generally comments sought clarity rather than querying the proposed approach. For example clarity with regards to the development of the industry procedures, the role of the UR in the development of industry procedures, the treatment of vulnerable customers and compliance with the CoP once they are in place. We have explained and clarified our approach where appropriate. In particular this paper clarifies the governance arrangements that we are adopting for the Energy Theft CoP. There were also some proposed changes to particular sections in the Energy Theft CoP. We have considered these comments and made changes where appropriate.

This decision paper also includes the final Electricity and Gas Theft CoP as well as the final proposed licence condition. A formal licence consultation and decision paper will be required to implement these changes. We have provided an indicative timetable of the proposed next steps. However we note that this timeline will be dependent on the progress of the industry procedures. As we have noted in previous consultations, we intend to align the implementation of the new licence condition with the completion of the industry procedures.

We welcome that industry have already commenced work to progress the development of industry procedures.

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Glossary

Name	Definition
CCNI	Consumer Council for Northern Ireland
CoP	Codes of Practice
CDA	Central Design Authority
CPS	Consumer Protection Strategy
DNO	Distribution Network Operator
ETIP	Electricity Theft Industry Procedure working group
EU	European Union
FWP	Forward Work Plan
FOIA	Freedom of Information Act
GTWG	Gas Theft Working Group
HSENI	Health and Safety Executive for Northern Ireland
IME3	EU Third Internal Energy Package (2009) concerning common rules for the internal markets in electricity (Directive 2009/72/EC) and gas (Directive 2009/73/EC)
kWh	Kilowatt hour
MPRN	Meter Point Registration Number
MRC	Market Registration Code
NEA	National Energy Action
NI	Northern Ireland
NIEN	Northern Ireland Electricity Networks
PDIO	Prevention, Detection, Investigation and Outcome
PSNI	Police Service of Northern Ireland
REMM	Retail Energy Market Monitoring
ROI	Republic of Ireland
SLA	Service Level Agreement
SMPN	Supply Meter Point Number
T&Cs	Terms and Conditions
UR	Utility Regulator
VAT	Value Added Tax
V & C	Voluntary and Community (sector)

1. Introduction

Purpose of this paper

- 1.1. On 07 February 2017 we published a second consultation¹ on the implementation of a new Energy Theft Codes of Practice (CoP)². We received feedback mainly in the form of written consultation responses with verbal feedback from a couple of respondents. The purpose of this paper is to:
- Discuss the responses to the consultation;
 - Present our final Energy Theft CoP, including our reasons for any changes made since the second consultation;
 - Detail the proposed licence modification to formally implement the CoP and;
 - Detail the timeframe for the implementation of the new CoP by suppliers and Distribution Network Operators (DNOs).
- 1.2. This paper does not attempt to revive issues that were resolved prior to the publication of the second consultation paper – only issues consulted on in the second consultation paper are included in this decision paper (all other decisions remain as previously stated).

Background

- 1.3. Energy theft is a matter of concern to consumers, the energy industry and to the UR. It can have serious safety consequences. Consumers tampering with gas and electricity equipment are placing themselves, their families, other household members and neighbours at risk. Consumers involved in energy theft may also face prosecution, which can result in court proceedings and a criminal record. Furthermore, the value of the energy stolen is paid for by other consumers within their bills, increasing the costs for all energy consumers.
- 1.4. The consumer protection issues related to energy theft are of significant concern to the UR. The UR published its 2017/2018 Forward Work Plan (FWP) in March 2017³. The FWP includes the implementation of a five-year Consumer Protection Strategy (CPS). One of the priorities of the CPS is to implement an Energy Theft CoP.
- 1.5. The objective of the Energy Theft CoP is to protect consumers and the wider industry from the safety issues and costs related to energy theft. To do this we propose to use the Energy Theft CoP to provide transparency on the obligations on electricity and gas DNOs and suppliers to work together to

¹[Second Consultation Paper on Energy Theft Code of Practice](#)

²Energy Theft CoP refers to both the Code of Practice for the Theft of Electricity and the Code of Practice for the Theft of Gas

³[Forward Work Plan 2017/2018](#)

establish and implement detailed and best-practice industry procedures to prevent, detect, investigate and manage the outcome of investigation into energy theft. We also include procedural requirements on energy companies in handling theft matters, including when dealing with customers who may be in vulnerable circumstances.

Development of the final code of practice on energy theft

- 1.6. We held an industry workshop on the development of an Energy Theft CoP in April 2016. The purpose of the workshop was to seek views on the approach to developing an Energy Theft CoP, in advance of a formal consultation.
- 1.7. We also met separately with industry parties to discuss their views on the relevant issues. The discussions at the workshop and separate meetings fed into our thinking for the first consultation paper.
- 1.8. In July 2016 we published our first consultation⁴ on the Energy Theft CoP. The first consultation paper set out our initial proposals on the principles and high level design for the Energy Theft CoP. A draft Energy Theft CoP for gas and electricity was also included in the appendices to the first consultation.
- 1.9. In February 2017 we published our second consultation⁵ on the Energy Theft CoP which took into consideration the responses from the first consultation. We received nine responses to the second consultation from the following organisations:
 - CCNI
 - Electric Ireland
 - firmus energy
 - NEA NI
 - NIE Networks
 - PNGL
 - Power NI
 - SGN
 - SSE
- 1.10. The full responses were published alongside our industry update in June 2017⁶. Due to the number of responses received we have not sought to address every individual point, but we have summarised key comments received and considered all responses in the development of the final arrangements that are presented in this paper.
- 1.11. Since the first and second consultation papers were published we have also undertaken further engagement with the participants from the gas and electricity industries to discuss the proposed Energy Theft CoP. These

⁴[Energy Theft Code of Practice, UR first consultation, 18 July 2016](#)

⁵[Energy Theft Code of Practice, UR second consultation, 7th February 2017](#)

⁶[Energy Theft Code of Practice Industry Update](#)

discussions have assisted the UR in refining the final arrangements for the decision paper and the final versions for the Energy Theft CoP.

- 1.12. As outlined later in this paper, compliance with the Energy Theft CoP will be mandatory for all distribution and supply licence holders in gas and electricity and a new licence condition will be introduced to require compliance. This paper includes our final proposals for the new licence condition. A further, formal licence consultation and decision paper will be required to implement these changes in line with our statutory requirements. These will be consulted on during 2018 and further details on this are included in section 5 under our next steps.
- 1.13. We welcome that representatives from the electricity and gas industries have already established working groups to develop the detailed industry procedures to manage theft and ensure compliance with the Energy Theft CoP.
- 1.14. The proposed key milestones for the Energy Theft CoP consultation process through to implementation of industry procedures are set out in the table below. The timeframes have been revised since the second consultation and as per our industry update of June 2017. These timelines are also dependent upon the progress of the industry procedures and the UR will work with industry to ensure that the licence consultation notice is published at an appropriate time in line with the completion of the industry procedures.

Milestone	Proposed Date
Pre consultation stakeholder engagement	April – May 2016
Publication of initial consultation	18 July 2016
Closure of initial consultation	12 September 2016
Further stakeholder engagement	August – December 2016
Publication of second consultation (including proposed licence modifications)	7 February 2017
Closure of second consultation	7 April 2017
Further stakeholder engagement	April – December 2017
Publication of final decisions	20 March 2018
Publish consultation notice on proposed licence modifications	June 2018
Development of industry procedures	Q4 2017 – Q3 2018
Final decision on licence condition published	Q3 2018
Licence modified to include new condition to comply with the Energy Theft CoP and industry arrangements in place and operational	30 September 2018

Structure of this paper

- 1.15. For consistency this paper has a similar structure to that of the first and second consultation paper. For transparency we have summarised the industry responses and our comments in the applicable sections of this paper. It is not possible to detail every comment and respond to each one individually. As a result we have included those comments that are most significant or those opinions that have been shared by a number of respondents.
- 1.16. We thank all our stakeholders again for their engagement throughout the development of this CoP. We received a large amount of written and verbal feedback during this process and we are confident that we have developed a final CoP that is representative of the feedback we received throughout the project. This paper aims to summarise and respond to the issues raised by stakeholders in response to our second consultation paper (note: as stated above this paper will not reconsider issues that were resolved following the initial consultation).
- 1.17. We have produced versions of the final CoP in the appendices. These include clean copies and also versions tracking the changes from the CoP presented in the second consultation.
- 1.18. The paper has the following sections:
- **Section 2** describes our response to general comments received on the proposed CoP including governance and monitoring arrangements.
 - **Section 3** sets out the final arrangements for the content of the Energy Theft CoP.
 - **Section 4** sets out the proposed licence modifications for gas and electricity licence holders which will be consulted on in 2018.
 - **Section 5** provides detail on the next steps for this project

 - **Appendix 1:** contains a final version of the CoP for Theft of Electricity
 - **Appendix 2:** contains a final version of the CoP for Theft of Gas
 - **Appendix 3:** (separate to this decision paper) contains a tracked changes version of the CoP for Theft of Electricity
 - **Appendix 4:** (separate to this decision paper) contains a tracked changes version of the CoP for Theft of Gas
- 1.19. Section 3 of this paper sets out the final arrangements for the Energy Theft CoP. These sections follow the same format as the equivalent sections within the previous consultation paper; however the full justification for the proposals has not been restated where the proposals remain unchanged.

Equality Considerations

- 1.20. As a public authority, the UR has a number of obligations arising from Section 75 of the Northern Ireland Act 1998. These obligations concern the promotion of equality of opportunity between:
 - i. persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
 - ii. men and women generally;
 - iii. persons with disability and persons without; and
 - iv. persons with dependents and persons without.
- 1.21. The UR must also have regard to the promotion of good relations between persons of different religious belief, political opinion or racial groups.
- 1.22. In the development of its policies the UR also has a statutory duty to have due regard to the needs of vulnerable customers i.e. individuals who are disabled or chronically sick, individuals of pensionable age, individuals with low incomes and individuals residing in rural areas. Some of the above equality categories will therefore overlap with these vulnerable groupings.
- 1.23. The responses that we have received have informed the development of the Energy Theft CoP in line with the requirements of Section 75 of the Northern Ireland Act 1998 and also our statutory duties to have due regard to the needs of vulnerable customers. There were no specific comments received from the second consultation with regard to equality considerations.
- 1.24. This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact us and we will be happy to assist.

2. Response to general comments received

Introduction

- 2.1. This chapter provides our response to the general comments we received regarding our second proposals for a new CoP on energy theft.
- 2.2. There were many positive comments regarding our programme of engagement with stakeholders during the development of the CoP. Almost all respondents were appreciative of the opportunity to provide feedback at various points throughout the process and noted that the second proposals were reflective of much of the feedback we had received. We consider this input from stakeholders to be invaluable in developing a CoP that will benefit consumers, suppliers, network operators and other stakeholders.
- 2.3. The general feedback is discussed in detail below and includes the following:
- Governance and monitoring of the Energy Theft CoP;
 - Development of industry procedures;
 - Industry procedures – role of the regulator;
 - Amendments to the industry procedures once in place;
 - Compliance with the Energy Theft CoP;
 - Future review of the Energy Theft CoP;
 - Definition and treatment of Vulnerable persons;
 - Disconnections;
 - Switching arrangements for customers who have been suspected of tampering;
 - The forthcoming CCNI Energy Theft Awareness campaign;
 - Treatment of differences in company policies, and;
 - Clarification of roles and responsibilities (electricity only).

In relation to each of these general items we have also included stakeholder comments, our response to these comments and our final decisions where relevant.

Proposed arrangements for the governance of the CoP

- 2.4. There have been minimal changes to the proposals on governance and monitoring of the Energy Theft CoP that were presented in the second consultation. However there were a number of responses relating to this aspect, and some important questions and queries, therefore we have updated

the process in the relevant areas and provided further clarification where necessary.

- 2.5. The regulatory framework we have adopted for the Energy Theft CoP has the following structure:
- i. the mandatory licence condition for both DNOs and suppliers;
 - ii. the principles and arrangements within the Energy Theft CoP, and;
 - iii. the more detailed industry procedures established by the industry that must ensure compliance with the CoP.
- 2.6. The licence condition requires that the Licensee complies with the principles and obligations set out in the Energy Theft CoP. In order to comply with the obligations of the Energy Theft CoP, the Licensee shall establish and comply with best practice procedures to facilitate the prevention, detection, investigation and manage the outcome of investigation in to energy theft.
- 2.7. The proposed licence condition will be included in supply and distribution network licences in both electricity and gas. A copy of the proposed licence condition is presented in Section 4 of this paper.

Development of the Industry Procedures

- 2.8. The Energy Theft CoP requires all Licensees to work together and cooperate with each other to achieve best practice industry procedures for dealing with all aspects of energy theft.
- 2.9. The Energy Theft CoP is mainly “principle-based”. However where we consider it necessary, we have provided additional detail in the Energy Theft CoP to underpin the high level principles.
- 2.10. To comply with the Energy Theft CoP, the relevant electricity and gas companies will need to establish, implement and abide by the detailed industry procedures for electricity and detailed industry procedures for gas, and to work together in doing so to meet the requirements of the Energy Theft CoP. As stated in the previous section, compliance with the Energy Theft CoP will be a mandatory licence condition and it is the responsibility of the Licensee to ensure they are compliant with all aspects of their licence.
- 2.11. The key goal of the industry procedures are to set out best practice processes and work on a continuous improvement basis to ensure the procedures are effective on an ongoing basis. Additionally, the industry procedures must clarify the roles and responsibilities for each company in dealing with energy theft to ensure that processes work efficiently and successfully.
- 2.12. For the electricity industry there will be one set of industry procedures covering distribution and supply activities. The electricity DNO and all active electricity suppliers need to be a party to, comply with, and maintain such industry

procedures. In electricity, as the only DNO, NIE Networks have been assigned the principal coordinator role.

- 2.13. For the gas industry, all gas distribution network operators and all active gas suppliers will need to work together to develop and establish industry procedures covering distribution and supply activities across NI.
- 2.14. All DNOs and all active suppliers across all Distribution Network Areas will need to be a party to, comply with, and maintain one set of industry procedures for the whole of NI. The procedures may be written to include some differences for each Distribution Network Area, but as an exception and only where the differences are warranted by valid reasons.
- 2.15. In gas, where there are three DNOs⁷ within NI, we have decided that the DNOs share the drafting of the industry procedures and that one DNO should adopt the principal coordinator role. The DNOs have decided that PNGL should adopt the principal co-ordinator role at the Gas Theft Working Group (GTWG) meetings.
- 2.16. In the following section we have set out the arrangements to be applied when parties cannot reach agreement on the drafting of the industry procedures.
- 2.17. During discussions the Electricity Theft Industry Procedures (ETIP) working group has queried whether the industry procedures would become a Market Procedure once they are fully complete, and therefore form part of the Market Registration Code (MRC) (which is approved by the UR and published on our website⁸). As the UR will not have a formal role in approving the industry procedures, we consider at this time that it is not therefore appropriate for the procedures to become published Market Procedures pursuant to the MRC.
- 2.18. We consider that it is more appropriate for the energy theft industry procedures, both gas and electricity, to be 'stand-alone' documents that are not publicly available. This is similar to other industry procedures or side agreements and fits with our principle-based approach. At all times however, the detailed procedures must meet the new CoP principles.

Industry Procedures – Role of the Utility Regulator

- 2.19. The industry procedures in gas and electricity are to be drafted, agreed and implemented by the relevant licence holders. The UR will not have a role in formally approving the industry procedures; however the UR will feed into the development of the industry procedures and attend relevant meetings in an observer role. The UR has already attended both the ETIP and GTWG meetings and contributed to relevant discussions.
- 2.20. Industry may seek independent views from other parties such as the Health & Safety Executive for Northern Ireland (HSENI) or the Consumer Council

⁷ Phoenix Natural Gas Limited (PNGL) is the DNO for the Greater Belfast licensed area, firmus energy (Distribution) Limited is the DNO for the Ten Towns licensed area and SGN Natural Gas Limited is the DNO for the West licensed area.

⁸ [Retail Market Documentation | Utility Regulator](#)

(CCNI) to assist in developing the industry procedures. Indeed CCNI have already attended relevant industry working group meetings and contributed to discussions.

- 2.21. If during the drafting of the industry procedures there is a difference of opinion or specific issues arise, we require the industry participants to work together to come to a solution and resolve these within the industry group(s). However if situations arise during the drafting of the procedures where the industry participants cannot reach agreement on certain issues, then the industry can bring issues to the UR for adjudication. It is important to note that the UR will only consider issues that have been brought by either the gas or electricity industry collectively as a group, rather than by distribution or supply companies on an individual basis. To expedite delivery of the industry procedures, and ensure timely compliance with the new CoP, we consider that where an issue is referred to the UR, the UR will make a decision which will be final and the industry must abide by that decision and implement the UR's decision within the industry procedures.
- 2.22. Although the UR will not have a role in formally approving the industry procedures, if the UR considers that the industry procedures are not best practice arrangements and/or do not comply with the Energy Theft CoP, then it may direct the DNOs and suppliers to review and amend the procedures where necessary. The Energy Theft CoP contains provisions for the UR to make such directions.

Amendments to the Industry Procedures once in place

- 2.23. The electricity and gas industry procedures must include a formal and documented process for ongoing reviews and changes of the industry procedures. This should include pre-planned reviews at set timeframes and also an ability for the industry participants to review the procedures on an ad-hoc basis when it is considered necessary to react to changes in the industry and/or environment.
- 2.24. We had previously noted that the review process must allow for changes to be proposed by any Licensee that is party to the procedures or by the UR. However we wish to clarify that any changes to the industry procedures proposed by an individual supplier or DNO should be agreed collectively by industry at the ETIP or GTWG, under the formal change processes included in the arrangements, prior to those changes being implemented. This approach is to reduce potentially unnecessary changes raised by individual suppliers or the DNO. Under this arrangement, any proposed changes are fully considered by all and only those changes that are deemed appropriate by the full industry group are implemented. Paragraphs 1.13 of the electricity and gas CoP have been updated to reflect this.
- 2.25. As noted above, where the UR considers that any changes to the industry procedures do not reflect best practice or where we consider that they do not

meet the requirements of the Energy Theft CoP we may direct the DNOs and suppliers to make appropriate changes to thereby maintain compliance with the CoP.

- 2.26. For clarity, where a review of the industry procedures is being undertaken each Licensee must continue to comply with the existing industry procedures until such time as any amendments are made.

Compliance with the Energy Theft CoP

- 2.27. Compliance with the Energy Theft CoP will be a mandatory licence requirement on all suppliers and DNOs in electricity and gas. This means any breach of the CoP will be considered a breach of licence. Any failure of suppliers or DNOs to comply with the Energy Theft CoP will be a failure to comply with their licence and therefore may result in a formal investigation and enforcement action in line with our enforcement procedure⁹.
- 2.28. We have proposed a licence modification to all distribution and supply licences within the electricity and gas sectors to place an obligation on the licence holders to comply with the Energy Theft CoP. Section 4 sets out the proposed licence modifications for gas and electricity licence holders and this will be consulted on in 2018 (further details are set out in section 5, Next Steps).
- 2.29. As an indication of timings, we intend for the licence condition to be in force by 30th September 2018, by which time we expect the industry procedures to be finalised and operational.
- 2.30. Each Licensee will be required to keep a record of its compliance with its obligations under the Energy Theft CoP and will be required to provide information to the UR to enable it to monitor the licensee's compliance as outlined below.
- 2.31. For DNOs the formal compliance reporting will be completed through Retrospective Energy Theft Compliance Reports. This will be accomplished through normal licence compliance monitoring for DNOs.
- 2.32. The Retrospective Energy Theft Compliance Reports will require the DNOs to self-certify that they have been compliant with the Energy Theft CoP and with the industry procedures and may require some supplementary information to be provided to explain how they have been compliant in some aspects. The detail of these submissions and deadlines for same will be communicated to DNOs in advance.
- 2.33. For suppliers, compliance will be monitored through the Retail Energy Market Monitoring (REMM) annual return for licence compliance and the additional requirements for monitoring of the Energy Theft CoP will be set out in advance of the relevant return being due.

9 [Utility Regulator Enforcement Procedure - 2016](#)

- 2.34. The UR may also decide that other reporting metrics are required to assist with the monitoring of theft issues. For clarification, this type of scrutiny will allow the UR to monitor the severity of theft issues and progress in dealing with such issues, rather than monitoring DNO and supplier compliance. For example, this may be as a result of new problems or concerns that have arisen in the marketplace. Any such metrics would be agreed informally with Licensees (including the detail or what the metrics will require and the frequency of information provision). These reporting requirements allow for information to be submitted more frequently when there are specific theft issues that need to be monitored more closely.

Future Reviews of the Energy Theft CoP

- 2.35. The arrangements outlined above mean that the electricity and gas industry participants will be able to react to changes in the marketplace by revising their industry procedures if needed. The UR will not need to approve these changes, but we expect that any changes will be fully compliant with the Energy Theft CoP and promote best practice arrangements.
- 2.36. It is therefore unlikely that procedural changes would require changes to the Energy Theft CoP. However if a situation did arise where a change to the Energy Theft CoP may be required, or if the UR considers it necessary to amend the Energy Theft CoP for other reasons, then we have decided that a consultation should be carried out on any potential changes. Examples could include any issues that are raised through UR monitoring activities of compliance, and/or customer complaints.
- 2.37. Any such consultation may be restricted to the electricity and gas industries (i.e. any company holding an electricity or gas licence) and may include key stakeholders (e.g. consumer groups and PSNI) or may be a public consultation, depending on the nature of the changes.

Definition and treatment of Vulnerable Customers

- 2.38. There were a number of responses commenting on the definition of vulnerable persons, who would be responsible for identifying these; and a request for process/activity examples of how vulnerable customers should be treated once identified.
- 2.39. Two responses commented on their dissatisfaction regarding the revised principle of customer vulnerability in the second consultation. One of these respondents considered that the revised principle was not as comprehensive as the original proposal. They also stated that energy theft has a whole household impact and disagreed with the removal of the reference to 'and/or occupants of domestic premises'. Another respondent considered that all household members, and not just the bill payer should be considered in the round. This respondent also asked if the UR would consider a best practice approach for dealing with vulnerable customers whilst at the same time applying the overarching principles of the Energy CoP.

- 2.40. Having considered the responses, the UR maintains the view that the types of vulnerable customers already protected via other CoP required by the energy supply licences (for example the Supplier CoP on provision of services for persons who are of pensionable age, disabled or chronically sick), are a good and necessary starting point for defining vulnerability in relation to the new Energy Theft CoP.
- 2.41. Furthermore the UR has a statutory duty to have due regard for the protection of vulnerable customers. We meet this through our flagship Consumer Protection Strategy which was launched in February 2016¹⁰ and indeed the Energy Theft CoP was a priority consumer protection project identified in that strategy. The development of this 5 year Strategy included an acknowledgement by the UR that any person has the potential to become vulnerable, given a particular set of characteristics and circumstances. We also acknowledge that individual circumstances will change over time, and therefore policies and protections need to be sufficiently flexible to help all consumers, if and when they require assistance. Indeed, our understanding of vulnerability has developed; moving from being a relatively restrictive term which was based on defined customer groups, to an understanding that anyone can be vulnerable given a combination of circumstances.
- 2.42. Circumstances which can lead to vulnerability are often complex and multi-dimensional. They can also be transitory, with people moving in and out of positions of vulnerability. Health and mental health issues may also change an individual's vulnerability position quite quickly. Moreover, consumers' circumstances are not the only factor impacting on vulnerability, the impact of policies, practices and behaviour encountered by customers can also result in vulnerability.
- 2.43. Therefore, given all the above, in terms of how vulnerable people should be identified and treated in relation to the Energy Theft CoP, we expect that DNOs and suppliers should adopt a professional and common sense approach. This should, as an absolute minimum, be based on recognised vulnerability characteristics (eg pensionable age, disability, chronically sick), but should also include an element of case by case judgement (with appropriate training of staff) to recognise those customers who may be in vulnerable circumstances. This is especially important when dealing directly with individual persons at the doorstep, but also when handling energy theft investigations directly with customers.
- 2.44. In terms of supplier and DNO processes for handling people in vulnerable situations, we have not attempted to list, nor require specific actions under the CoP. At this stage we are content to allow the industry to discuss and agree best practice and practical actions and processes. However we suggest they discuss these issues with representative bodies such as CCNI and Advice NI as they develop their detailed industry processes. We also note clearly the

potential for UR to change the Energy Theft CoP in the future to mandate improved actions for customers in vulnerable circumstances if we consider that they have failed to develop the industry procedures sufficiently in the year after the CoP. Consequently, given the common sense and professional approach we are expecting from industry, at this stage we have left it to the industry to design and implement their own processes (including necessary staff training) to ensure they consistently apply a common sense and professional approach to identifying and treating any people in vulnerable circumstances. The UR requires that the detailed industry procedures should establish and put in place these best practice processes for any people in vulnerable circumstances. By way of a further example, supply companies already have a number of obligations in relation to vulnerable customers in their supply licence conditions via the relevant CoP¹¹. The UR would consider these procedures to be best practice in applying a common sense and professional approach to identifying and treating customers who are vulnerable, and all field staff should be trained to recognise any signs of vulnerability.

Disconnection

- 2.45. There were also a number of responses which raised concern around the disconnection of customers due to theft. As stated in our previous consultation papers, disconnection is outside of the scope of this CoP and is dealt with in the relevant DNO connection policies - however the UR would like to reiterate some related aspects.
- 2.46. There is an acknowledgement that there are instances where disconnection is required by either the DNO or supplier where safety is priority. Assuming there is no immediate safety issue **we would reiterate that disconnection should only happen as a measure of last resort and when other avenues of dealing with the customer have been exhausted.**
- 2.47. To try and prevent disconnection from happening, suppliers should have dedicated and trained support personnel to offer advice, seek debt management solutions such as repayment plans, and refer the customer to debt advisory bodies etc. before disconnection takes place.
- 2.48. In addition, the UR considers it best practice for any supplier or DNO who has initiated a disconnection to record and maintain all relevant correspondence and documentation when trying to contact a customer and also retain a record of all actions taken in relation to the disconnection process with that customer.
- 2.49. Licensees may be asked to supply the various correspondence, documentation and records to the Consumer Council and/or the UR in the event of a dispute and/or formal investigation.

¹¹[Code of Practice on Payment of Bills and Energy Supplier Codes of Practice Decision Paper | Utility Regulator Code of Practice on Provision of services for persons who are of Pensionable Age or Disabled or Chronically Sick.](#)

Switching arrangements for customers who have been suspected of meter tampering

- 2.50. In the second consultation we clarified the UR's position in relation to switching arrangements where there is suspicion of theft or meter tampering. Some of the responses received in relation to the second consultation still contained a number of comments around this issue.
- 2.51. One respondent from industry noted that giving suppliers the right to object to a customer switch where there is reasonable suspicions of tampering is entirely appropriate and were disappointed that the UR has not seen the merit in aligning switching arrangements in electricity to that which currently exists in gas. Furthermore, the respondent added that they were equally disappointed that the UR has, without explanation, not approved a mechanism to allow an electricity supplier to process an erroneous transfer (which would effectively switch this customer back to the previous supplier) in relation to a customer who has switched away and NIE Networks have subsequently confirmed theft has taken place.
- 2.52. Two respondents from the Voluntary and Community (V&C) sector disagreed with this view and outlined their concerns if a blocking system was implemented to prevent customers from switching if they had been suspected of meter tampering. One respondent noted that there is an established process within gas which allows for an objection to a customer switching if they have been suspected of theft. It was the respondent's view that this may be due to the significant disparity in the level of competition and number of switches in the gas sector compared to electricity and therefore is not an appropriate yard stick to use for electricity.
- 2.53. In addition, the second respondent from the V&C sector failed to see how objecting to a switch has any bearing on the customer's debt liability because even if a customer switches to a new supplier while being suspected of meter tampering, it was their view that this process does not prevent the original supply company from pursuing the individual for the debt if meter tampering is confirmed.
- 2.54. We recognise the issues that have been identified by all respondents in relation to this particular area. However, our view at this time remains unchanged from that which is detailed in the second consultation and the final Energy Theft CoP will not make any changes to the switching arrangements for customers who have been suspected of meter tampering. Any change in the electricity procedures must go through normal discussion, consultation and change protocols by the relevant industry group.
- 2.55. For clarity, the objective of the Energy Theft CoP was to outline the principles upon which the industry procedures can be created for the prevention, detection, investigation and manage the outcome of investigation into energy theft. If this requires further discussion or debate this should be raised at the

relevant industry forum (Central Design Authority) using the change control process for market procedures documented in the MRC.

CCNI Energy Theft Awareness Campaign

- 2.56. In an effort to raise awareness regarding the range of issues associated with energy theft, the UR welcomes CCNI's forthcoming Energy Theft Awareness Campaign that is currently being developed in collaboration with industry, which will be directed to the general public.
- 2.57. There were a large number of responses that made reference to the importance of the CCNI Energy Theft Awareness Campaign and we would expect Licensees to work in partnership and provide input and guidance, where appropriate, in assisting CCNI with the development of this campaign.
- 2.58. The UR agrees with respondents that this is an important campaign that will help educate the public on theft. Upon completion of the campaign, any agreed message should be communicated in a clear and consistent manner by all parties.

Treatment of differences in company policies

- 2.59. In developing the industry procedures at the ETIP working group it has been noted that companies have different internal business models and will therefore have different internal procedures. As such it was argued that it would therefore not be possible to have one set of industry procedures covering distribution and supply activities.
- 2.60. One example cited was a supply company's policy may be to rigorously chase debt and take cases to court, whereas others may have a different approach and may possibly write-off all or some element of the debt ,due to the costs of chasing the debt. Under these circumstances there would be two different processes and it would not be possible for a single set of procedures to cover the different approach of individual companies. Industry have asked how a single set of procedures would deal with this issue.
- 2.61. We recognise that there may be different approaches by individual companies. Indeed differences between companies may be necessary or appropriate, and may also give consumers choice in a competitive market, so it is important to provide some level of flexibility within the arrangements.
- 2.62. We advise that there should be a single set of industry procedures covering distribution and supply activities as much as possible, so as to provide a set of best practice standards within the industry that complies with the Energy Theft CoP. This is fundamental for compliance with the new CoP. However there can be flexibility to reflect the difference in approach within individual companies. These differences may be captured in separate business processes which are unique to the individual companies and can be documented separately by that individual company outside of the industry procedures and pursuant to these. By business processes we mean the detailed internal activities that a company

carries out to progress a specific procedure i.e. the procedures state what a Licensee should do and the processes set-out how the company would do it.

- 2.63. For example an industry procedure may state that suppliers should contact a customer to advise them of their intention or not to take a claim for energy related debt to the Small Claims Court. Say for example one supply company's policy is to offer the consumer the opportunity to settle the claim before beginning legal proceedings. Another supply company may have a different policy and may wish to proceed directly to the Small Claims Court. To reflect the difference in company policies, the different processes should be recorded in separate, company specific, documentation which reside outside of the industry procedure, but complies with the procedures and therefore complies with the Energy Theft CoP.
- 2.64. It is our aim that procedures reflecting the requirements of the Energy Theft CoP are as similar as possible so that arrangements are consistent. However at the process level we recognise that there may be some difference in company policies which have to be taken into account. However we reiterate that it should be noted that industry procedures are the platform for the company to comply with the Energy Theft CoP.

Clarification of Roles and Responsibilities for Electricity Sector

- 2.65. In the second consultation we clarified the UR's position in relation to the costs associated with theft, such as unbilled units, admin costs and how this debt can be recovered. Some of the responses received in relation to the second consultation still contained queries around this area.
- 2.66. One respondent noted that while in agreement that the costs associated with energy theft must be fair, transparent and not exceed the actual costs incurred by the Licensees, they are concerned at the requirement that all customers debt should be treated the same according to the minimum standards in the existing CoP for Payment of Bills.
- 2.67. The stakeholder argued that in their view this does not align with Schedule 6(4) of the Electricity Order 1992 and sought clarity in relation to who is responsible for the recovery of charges relating to electricity theft being either the responsibility of the DNO or the suppliers.
- 2.68. In addition, the same respondent also sought clarity on who should be responsible for reporting instances of energy theft to the PSNI.
- 2.69. It was their view that a single entity retains the responsibility for coordinating and investigating on behalf of each market and the DNO, as the asset owner, should also be responsible for investigating any meter tampering in relation to the asset.
- 2.70. In relation to both queries outlined above, we have considered the arguments presented and sought legal advice on both issues. In relation to who is

responsible for the recovery of charges, our conclusion is that where no contract exists between a customer and a supplier then theft of the conveyed electricity could be pursued by the DNO. Where an electricity supply contract exists with a customer then the supplier could pursue the theft of any sums lost by that contract.

- 2.71. With regards to who is responsible for reporting energy theft to the PSNI, our conclusion is that if there was damage to the asset it would be expected the DNO would report the matter to the police. Where loss of revenue had occurred under an electricity supply contract as a result of theft, it would be expected that the supplier would report the theft to the police. Whilst these parties have the vires to report such matters to the police there is no obligation to do so.
- 2.72. In addition to the legal advice received, the PSNI also attended the ETIP working group on the 15th November 2017 and during this meeting clarified the process for reporting energy theft, which aligned to the UR's legal view.

3. Content of the Energy Theft CoP

Summary of Key Changes from Second Consultation

- 3.1. This section of the consultation paper sets out the final design of the Energy Theft CoP. There are minimal changes from the design presented in the second consultation. Responses received to the second consultation mainly sought clarity on the proposed arrangements rather than querying the proposed approach. It is not possible to detail every comment and respond to each one individually. As a result we have included those comments that we consider most significant or those opinions that have been shared by a number of respondents.
- 3.2. Following the second consultation, we received some specific comments on the drafting of particular sections of the CoP. Having reviewed and given consideration to the responses received, we have included a version with tracked changes highlighting the amendments from the second consultation to the final Energy Theft CoP. These are included separately to this decision paper in Appendices 3 and 4.
- 3.3. For clarity, we have included clean copies of the final Energy Theft CoP for Theft of Electricity and Theft of Gas in Appendices 1 and 2.
- 3.4. Further issues regarding the treatment of different company policies and clarification of roles and responsibilities have arisen in discussions at the ETIP group. We have provided some guidance on these issues within this section.

Overview of the Energy Theft CoP

- 3.5. The final CoP contains the following sections:
 1. Objective of CoP and obligation to achieve it
 2. Principles underpinning the CoP
 3. Requirements for the prevention of theft
 4. Requirements for the detection of theft
 5. Requirements for the investigation of theft
 6. Manage the outcome of Investigation into Theft
 7. Information exchange between Licensees
 8. Resolving Disputes
 9. Compliance Reporting
 10. Definitions

- 3.6. Where we have made changes to the respective Energy Theft CoP we have provided commentary in the relevant sections below. Some minor drafting changes to add clarity have also been included in the final Energy Theft CoP.

1) Objective of Code of Practice and obligation to achieve it

- 3.7. This section sets out the scope and objective of the Energy Theft CoP and the arrangements for Licensees to meet that objective. Reference is also made to the development of industry procedures that are best practice.
- 3.8. The drafting in this section also sets out the arrangements for the principal coordinator role for the respective gas and electricity CoP and also the process to refer specific issues to the UR if the Licensees cannot reach agreement when developing the CoP. Reference is also made to the requirement for the industry procedures to include a process for ongoing reviews and changes. The review process must allow for changes to be proposed by any Licensee that is party to the procedures or by the UR.

Stakeholder Feedback

- 3.9. One respondent noted that the Energy Theft CoP requires Licensees to provide an indication of what happens if the investigation concludes that theft has occurred, including if the property should be disconnected from the network.
- 3.10. The respondent added that where it is determined that meter tampering and/or supply interference has taken place at a property on more than one occasion then from a safety perspective this property must be disconnected from the network. As such the respondent notes that the scope of the CoP and/or its supporting procedures must recognise this safety critical issue by documenting the treatment of multiple meter tampering and/or supply interference events up to the point of disconnection.

UR Decision

- 3.11. The safety of consumers is a key consideration and this is reflected in the principles of the Energy Theft CoP. Applying this principle to working procedures we consider that if the assessment by the Licensee is that the premises should be disconnected for safety reasons then that is an appropriate course of action.
- 3.12. As noted previously, under these circumstances, we consider it best practice for any supplier or DNO who has initiated a disconnection to record and maintain all relevant correspondence and documentation when trying to contact a customer and also retain a record of all actions taken in relation to the disconnection process with that customer. Licensees may be asked to supply the various correspondence, documentation and records to the

Consumer Council and/or the UR in the event of a dispute and/or formal investigation.

- 3.13. Disconnection is a possible outcome of an investigation however the procedures around disconnection are not detailed in the Energy Theft CoP. The Energy Theft CoP is principle-based and we consider that detailed disconnection arrangements are best contained within the licensee's disconnection policy. Therefore we have updated section 1.5 of the CoP to reflect that disconnection procedures are not within the scope of the Energy Theft CoP and that disconnection arrangements are set out in the relevant Licensee's disconnection policy.
- 3.14. In line with this approach we have also updated the drafting in section 6.3 of the CoP that relate to the Licensee using its statutory disconnection powers. The legal requirements and associated circumstances surrounding the use of a Licensee's statutory powers are best determined by the Licensee. The assessment of those circumstances which may lead to a decision to disconnect premises are best suited to the Licensees own disconnection policy.
- 3.15. We consider that it is more appropriate to reference these powers, to note that they are available, but that the circumstances relating to their use are contained within the Licensees policies. Drafting of section 6.3 has been amended to reflect this approach.
- 3.16. Also for consistency we have also clarified that reconnection to the gas or electricity network is not within the scope of the Energy Theft CoP. Reconnection arrangements are set out in the relevant DNO's reconnection policies. Again, this is noted in section 1.5 of the gas and electricity CoP.
- 3.17. Following stakeholder feedback and to promote transparency and clarity of the process involved, we have made a change to the layout of the sections by including 'Manage the outcome of Investigation into Theft' as a separate section and objective of the CoP, rather than its previous positioning within the 'Investigation of Theft' section. This is noted within section 1.1 of the gas and electricity CoP.

2) Principles underpinning the CoP

- 3.18. This section of the CoP sets out the principles that Licensees must comply with when dealing with all aspects of prevention, detection, investigation and managing the outcome of investigation into energy theft. When documenting and implementing industry procedures to deal with energy theft each Licensee must consider these principles.

Stakeholder Feedback

- 3.19. Generally we have received positive feedback on the principles for the Energy Theft CoP which were developed during the second consultation.

- 3.20. Reiterating the stakeholder comment from the previous sub-section (objective of CoP and obligation to achieve it), the respondents' view is that the management of the outcome of investigation should have its own section within the CoP and as a result would adjust the content of Principle 3; Prevent, Detect and Investigation.

UR Decision

- 3.21. Following the amendment to section 1.1, Principle 3 by the same token has been expanded to include "Manage the Outcome of Theft of Electricity" (or Gas as appropriate) in both CoP.
- 3.22. There were no additional responses received in relation to the principles within the Energy Theft CoP.

3) Requirements for Prevention of Theft

- 3.23. This section of the Energy Theft CoP includes requirements for DNOs and suppliers to establish detailed and best practice industry processes and procedures to carry out activities that make it difficult for consumers to engage in energy theft, and/or discourage consumers from carrying out energy theft in the first place.

Stakeholder Feedback

- 3.24. One respondent noted that the requirement to keep up-to-date with the latest methods for preventing theft was only applicable to DNOs. It was their view that this particular requirement should be applicable to both DNOs and suppliers.
- 3.25. Two respondents commented on their concerns that there was no real deterrent in place to try and prevent customers from meter tampering, particularly within the electricity market. One of the stakeholders commented on their concern that the CoP neither requires nor facilitates the creation of any downside to energy theft. These comments were reiterated at the ETIP working group.
- 3.26. One respondent also made comments to the development of the industry procedures and suggested incorporating other options to try and deter energy theft, which are already being utilised in other jurisdictions, such as increased site visits, criminal convictions and upfront payments.

UR Decision

- 3.27. The UR acknowledges the concerns of industry in relation to prevention of meter tampering and although deterrents do exist, one of the objectives of the Energy Theft CoP is to increase the awareness of such deterrents through the principles of Prevention, Detection, Identification and Managing the Outcome of Investigation.

- 3.28. Suppliers, as well as DNOs have a requirement to keep procedures up to date and fit for purpose. As such we have extended the requirement to keep up-to-date with the latest methods for preventing energy theft to include both suppliers and DNOs. We have also extended this requirement to the equivalent sections in the Detection and Investigation of Theft sections.
- 3.29. The forthcoming CCNI Meter Tampering Campaign will also help to address this issue and the UR encourages the industry to work closely with CCNI on the development, content and execution of this campaign. The objective of this campaign is to deliver a clear and consistent message to the public around not only the safety and potential criminal implications associated with energy theft, but also the fact that energy theft is paid for by all consumers. Furthermore, the UR understands that this campaign will also contain the relevant contact details (i.e. e-mail, telephone number) should anyone wish to report matters regarding energy theft.
- 3.30. In relation to the comment on incorporating other options to deter energy theft, the UR believes this is something for the relevant industry group (ETIP and GTWG) to discuss and if appropriate incorporate these ideas into the industry procedures. It is essential that roles and responsibilities are clearly outlined and the UR would advise that all Licensees work together to ensure all options that are appropriate are included to aid the deterrence of theft.

4) Requirements for Detection of Theft

- 3.31. The Energy Theft CoP include requirements for DNOs and suppliers to establish procedures which detail arrangements to carry out activities to detect energy theft.
- 3.32. As noted in the previous section due to stakeholder feedback we have extended the requirement to keep up-to-date with the latest methods for detecting energy theft to include both suppliers and DNOs (section 4.6). As mentioned previously, both suppliers and DNO's have a requirement to keep procedures up to date and fit for purpose.

Stakeholder Feedback

- 3.33. One respondent commented that the current drafting in the CoP placed an obligation on suppliers to routinely analyse energy usage to try and identify any potential instances of theft. The stakeholder stated that analysis of energy usage by suppliers will only identify potential theft or interference if it commences after the customer switches to the new supplier.
- 3.34. In addition the respondent went on to explain that if the theft or interference started before the customer switched supplier, the new supplier would not have a full history of the consumption to compare usage against. The respondent noted that the DNO has full consumption history of the site and the demand forecasting tools to identify if a customer is potentially tampering with their meter or not.

- 3.35. Therefore the respondents view is there should also be an obligation on the DNOs to routinely analyse energy usage for potential theft issues as they will also have access to relevant information, which include but are not limited to, consumption history data, and the tools to detect energy theft.

UR Decision

- 3.36. Having considered the comments in this particular response, the UR's view is that in order to effectively detect energy theft, both DNOs and suppliers must work in partnership to achieve this. This can be achieved through the sharing of relevant information and via regular meetings at the relevant industry working group.
- 3.37. The details of the roles and responsibilities should be clearly outlined within the industry procedures documentation. The UR has updated the relevant section in both the gas and electricity CoP by removing the reference to suppliers and replaced this with Licensees (section 4.4).

5) Requirements of Investigation of Theft

- 3.38. The Energy Theft CoP includes the need for the DNOs and suppliers to have procedures and arrangements in place that cover the activities between suppliers, DNOs, customers and other parties from the point where potential theft is detected.

Stakeholder Feedback

- 3.39. One respondent queried the usefulness of the requirement for DNOs to make a second visit to premises to attempt to gain entry. They noted that the arrangements for obtaining a warrant are already delivered in primary legislation. Under these arrangements it is sufficient to have attempted to remove/exchange a meter where reasonable grounds of suspicion of meter tampering exist, without warrant. This forms part of the sworn information to the court i.e. that further attempts would defeat the purpose or if first visit entry was refused. As such the relevant companies have to work to primary legislation in obtaining a warrant and the CoP must be aligned with these statutory obligations.
- 3.40. Another respondent queried the reason for the DNO not having to make a second or subsequent visit if such a visit would represent a safety concern.

UR Decision

- 3.41. In relation to the comments raised regarding obtaining a warrant, we have considered the issues raised and are in agreement that primary legislation must take precedence. The Energy Theft CoP do not contain reference to the process to raising a warrant as we consider that this is a separate process and not appropriate for the CoP. However where respondents have noted that the drafting may cause an issue or conflict with existing processes to raise warrants we have re-drafted accordingly.

- 3.42. For clarification the purpose of the second or subsequent attempt to gain entry to the premises was for practical purposes, that is, to avoid any delays that may occur following an unsuccessful visit under the circumstances when there was no one available at the property, for example if the Licensee is in the vicinity they could try the premises again rather than carding the householder to book a re-visit with the company. This can not only add delays to the process but also contribute to additional back-office work.
- 3.43. Secondly if there is a safety issue to the consumer due to tampered equipment then this should be dealt with immediately and accordingly. If attending staff consider that a second visit to the premises would represent a safety concern then, under these circumstances, a second visit would not be appropriate.
- 3.44. We have amended the wording in section 5.5 of both gas and electricity CoP to reflect the feedback received. The changes allow for some flexibility in whether to attend the premises for a second visit. We have replaced 'must make at least one other site visit' to 'should normally make at least one other site visit'. We have also added further drafting to clarify that a second visit is not required if this would compromise the safety of staff, consumer(s) or may hinder future attempts to gain access.
- 3.45. Section 5.5 refers to the DNO accessing premises to carry out the relevant activities to inspect equipment. If access to the premises is not successful then the DNO may apply for a warrant to gain access under the Electricity (NI) Order which is noted in paragraph 5.11 of the CoP. Suppliers may also seek a warrant to authorise entry into premises under the Electricity (NI) Order. As such we have amended the drafting in section 5.11 to reflect that a 'Licensee', be that a supplier or DNO, may raise a warrant to gain entry where access to the premises have not been gained after a reasonable number of attempts have been made.

6) Manage the Outcome of Investigation into Theft

- 3.46. Due to comments raised from the second consultation, we took the decision to expand principle 3 ("Prevent, Detect and Investigate") and include an additional requirement – Manage the Outcome of Investigation. When an investigation into suspected theft of gas or electricity confirms that theft has occurred and can be proven, the Licensees will be required to comply with these requirements.

Stakeholder feedback

- 3.47. Two respondents noted that the drafting referred to the Licensee having to identify the customer 'responsible' for the theft. One respondent stated that they did not believe this was an appropriate or fair requirement to place on Licensees. Their view is that unless the Licensee is present when the theft actually takes place or the person(s) admits to the offense there is no known avenue to establish who actually undertook the activity at this stage. The other

respondent emphasised that the “responsibility” for the criminal act of theft can only be determined in a criminal court and therefore its use in the CoP is inappropriate.

- 3.48. We also received a comment on the section of the CoP that deals with the arrangements when the consumer is charged by a Licensee for the costs associated with energy theft. The respondent noted that it is the supplier who bills the customer for lost units rather than the ‘Licensee’ and suggested that the drafting be changed to specifically refer to the ‘supplier’.
- 3.49. A further comment noted that we had referred to a specifically named Consumer Council information sheet and that this raises the potential for the CoP and its requirements on Licensees to become out of date if this information sheet were to be replaced, discontinued or renamed by the Consumer Council.

UR Decision

- 3.50. We accept that determining responsibility for the criminal activity involved in energy theft is a matter for the PSNI and courts. The CoP now simply requires Licensees to cooperate with each other and the PSNI in those investigations, where appropriate. As regards to the cost to industry, the Licensees will have to determine, under their contract, connection agreement or other legal auspices, who is liable for the associated costs until such time as restitution is made. We have accepted the argument presented and this is covered in sections 6.4 and 6.8 of the gas and electricity CoP.
- 3.51. We have considered the comment suggesting that drafting should be changed to reflect that it is the suppliers’ responsibility to bill for lost units rather than the Licensees. This issue has also been discussed at the ETIP and GTWG and is also relevant to other parts of the CoP where the term ‘Licensee’ is used rather than providing a specific reference to a supplier or DNO. Participants were concerned that use of the word ‘Licensee’ would create additional responsibilities that may currently be carried out by a DNO or supplier.
- 3.52. However we consider that by using the word ‘Licensee’ the CoP will provide flexibility to cater for all circumstances that may occur as a result of the new detailed industry procedures, even if this is not currently common practice for a Licensee to carry out a particular activity. If Licensees wish to be more specific on responsibilities and detail that it is the role of the supplier or DNO to carry out a specific activity then this can be set out within the industry procedures. It is more appropriate for Licensees to determine who carries out the particular activities as they know the day-to-day operations and the party responsible for carrying out a specific task. Drafting has been updated throughout the electricity and gas CoP to include ‘Licensee’ rather than DNO or supplier as the case may be.
- 3.53. We have also updated the section relating to the provision of further information from the Consumer Council to allow for any future changes in the naming of relevant documents. This change has been applied to both the gas

and electricity CoP for the requirements to Investigate and Manage the Outcome of Investigation sections (5.12f and 6.6h).

- 3.54. We have also extended the requirement to keep up-to-date with the latest methods for investigating energy theft to include suppliers as well as DNOs (section 6.10). We accept that both suppliers and DNOs have a requirement to keep procedures up to date and fit for purpose.

7) Information Exchange between Licensees

- 3.55. This section includes a need for the DNOs and suppliers to exchange information where reasonable to do so in order to comply with the requirements of the Energy Theft CoP, their licence and any applicable legislation.

Stakeholder feedback

- 3.56. There were no responses received in relation to this area of the CoP.

UR Decision

- 3.57. There have been no amendments to this section in the final Energy Theft CoP.

8) Resolving Disputes

- 3.58. The Energy Theft CoP sets out that the Licensee's existing complaints handling processes should be used to deal with customer complaints. If a customer is of the view that their complaint has not been resolved they can seek help from the Consumer Council.
- 3.59. The previous draft Energy Theft CoP also contained reference to circumstances where a Licensee has evidence of another Licensee being non-compliant with the CoP. Under these circumstances the issue should be referred to the UR. We have moved this paragraph to the Compliance Reporting section as we consider this to be more appropriate.

Stakeholder feedback

- 3.60. One respondent stated that in their view the current complaints handling procedure does not adequately address complaints or disputes relating to energy theft, given that the supplier may be entirely depending on the DNO to assist in resolving the dispute or complaint. Furthermore, the respondent added that there is currently no Service Level Agreement ("SLA") in place between suppliers and DNOs for query resolution and this is something they believe needs to be put in place to ensure compliance with the CoP.

UR Decision

- 3.61. We have considered the responses and believe that the point raised in relation to SLAs is something which needs to be debated and considered at the relevant working group and if there was to be an implementation of such

agreement, the details of such agreement should be outlined in the industry procedures document.

- 3.62. We would encourage DNOs and suppliers to work in partnership to try address any current issues that may exist in relation to the complaints handling procedure.
- 3.63. We have also made a change to section 6.5 of both the gas and electricity CoP relating to the retention, secure storage and destruction of information. In the previous drafting we stated that: *'All information will be stored securely and destroyed after a period of time. No information will be retained longer than reasonably required'*.
- 3.64. The drafting has now been changed to state that: *'All relevant information should be processed in accordance with the applicable data protection legislation'*. We have made this change as the requirements on Licensees to 'process' information is changing under the General Data Protection Regulation 2016\679 (GDPR). We consider that it is more appropriate to reference legislative requirements that sit outside of the CoP rather than set out a selection of these requirements within the CoP.
- 3.65. Also, the previous drafting only referred to secure storage, destruction and retention of information. This misses some of the other possible operations on data, for example: adaptation, disclosure by transmission or dissemination. As such we have used the term 'processing' as adopted in the GDPR to reflect these wider operations.

9) Compliance Reporting

- 3.66. This section requires that each Licensee must keep (and ensure that any representative keeps) a record of its compliance with its obligations under the Energy Theft CoP. Additionally the Energy Theft CoP requires that each Licensee provides the UR with such information that the UR requires or deems necessary or appropriate to allow monitoring of the Licensees compliance with the CoP.

Stakeholder feedback

- 3.67. There were no responses received in relation to this area of the CoP.

UR Decision

- 3.68. We have explained in the general comments section that we expect DNOs to comply with monitoring requirements through the submission of Retrospective Energy Theft Compliance Reports. Suppliers are to meet this requirement through their REMM submission. The detail of these submissions and deadlines for same will be communicated to DNOs and suppliers in advance.
- 3.69. As noted in the previous section we have moved the drafting that relates to circumstances where a Licensee has evidence of another Licensee being non-

compliant with the CoP. We have also made some changes to the drafting in this paragraph to clarify that the UR will review the issue and then make a decision on whether to carry out a full investigation. Some circumstances may not require a full investigation and we consider that it is prudent to carry out a preliminary review before a decision to proceed with a full investigation is made.

10) Definitions

3.70. This section sets out the definitions of Theft of Gas/Theft of Electricity.

Stakeholder feedback

3.71. We received one comment on the definitions used for the Theft of Gas and Theft of Electricity. The respondent noted that 'theft' is already defined in the Theft Act (Northern Ireland) 1969 and that it is not appropriate for the UR to redefine it. The stakeholder also noted that electricity is abstracted as opposed to stolen and is therefore not real or tangible.

UR Decision

- 3.72. Some useful points have been raised relating to the definitions which we have considered. For example referring to the definition of theft as contained in Section 1 of the Theft Act (Northern Ireland) 1969 could be an approach. However customers that have stolen gas or illegally abstracted electricity can also be prosecuted under a number of other pieces of legislation (e.g. under the Criminal Law Act (Northern Ireland) 1967, Criminal Damage (Northern Ireland) Order 1977, Fraud Act 2006 and The Energy Act (Northern Ireland) 2011).
- 3.73. As such, it would not be appropriate to refer to only one area of legislation. Alternatively redefining gas and electricity theft under one single definition of 'energy theft' would not adequately capture the difference between the two sectors.
- 3.74. The definitions used within the respective Gas and Electricity Theft CoP are for industry to establish and comply with procedures to facilitate the prevention, detection, investigation and manage the outcome of investigation into energy theft. This is the regulatory framework that we have set out and against which we will monitor compliance.
- 3.75. For clarity the definitions used in the Energy Theft CoP will not be used to consider a prosecution as per the legal definition of theft. Those that have committed energy theft will be prosecuted under the definitions contained within the relevant legislation not on the basis of the definitions that we have included in the respective CoP. As such we consider that the definitions that we have adopted for gas and electricity theft are suitable for our regulatory framework and have not changed the definitions that are set out in the respective CoP.

- 3.76. As such there have been no amendments to the definition of Theft of Gas/Theft of Electricity in this section in the final Energy Theft CoP.
- 3.77. However, following the discussions set out in sections 2.38-2.44, we have removed the definition of Vulnerable Customer from the codes of practice.
- 3.78. Section 2.38-2.44 references the UR's Consumer Protection Strategy which acknowledges that any person has the potential to become vulnerable, given a particular set of characteristics and circumstances. Also that individual circumstances will change over time, and therefore policies and protections need to be sufficiently flexible to help all consumers, if and when they require assistance. Our understanding of vulnerability has developed; moving from being a relatively restrictive term which was based on defined customer groups, to an understanding that anyone can be vulnerable given a combination of circumstances.
- 3.79. As such we did not think that it was appropriate for a set definition of a Vulnerable Customer to be included in the codes of practice.

4. Proposed Licence Condition

- 4.1. The final proposed licence conditions are presented below. This new licence condition shall be added to all distribution and supply licences in gas and electricity. The conditions for electricity licences and gas licences are both provided below.
- 4.2. As stated in the previous consultation paper, we plan to carry out the statutory 28 day licence modification consultation process following the publication of this decision paper. As such the licence condition presented in this decision paper remains our proposal for the licence consultation paper.
- 4.3. We plan to publish the consultation notice on the new licence conditions in June, followed by publication of a final decision in Q3, which facilitates the industry procedures to be completed prior to the new licence condition coming into effect in September. This approach is designed to align the implementation of the new licence condition with the completion and implementation of the industry procedures. This means that when the licence condition is implemented, the licence holders will be expected to be compliant immediately.
- 4.4. Respondents have been supportive of the inclusion of a licence condition on the Energy Theft CoP. However we have not received comments on the actual drafting of the final proposed licence condition. There will be an opportunity to respond to the licence modification during the formal licence modification consultation.

Condition x: Code of Practice for the Theft of Electricity

1. The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Electricity.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to this condition, as the Authority considers are necessary or expedient.
3. In this Condition:

Code of Practice for the Theft of Electricity

means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity

In order to comply with the obligations of the Code of Practice for the Theft of Electricity, the Licensee shall establish and comply with

procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity

Agent or Subcontractor means any person directly or indirectly authorised to represent the Licensee in its dealings with electricity customers or other Licensees.

Condition x: Code of Practice for the Theft of Gas

1. The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Gas.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to this condition, as the Authority considers are necessary or expedient.

3. In this Condition:

Code of Practice for the Theft of Gas means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation and managing the outcome of investigation into the theft of gas;

In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of gas.

Agent or Subcontractor means any person directly or indirectly authorised to represent the Licensee in its dealings with gas consumers or other Licensees.

5. Next Steps

- 5.1. The electricity and gas companies are currently developing the industry procedures in their respective groups, ETIP and GTWG. The Energy Theft CoP require that DNOs and suppliers provide the UR with joint updates (every two months or as requested) to explain the progress being made.
- 5.2. We expect industry to have completed the development of the industry procedures by the end of Q3 2018, and if this is not achievable we expect Licensees to write to us in advance of this deadline. As such we plan to publish the consultation notice on the proposed licence condition towards the end of June 2018. The final decision on the licence modification is expected to be published at the end of Q3 with the licence condition and industry arrangements in place by 30th September 2018.
- 5.3. Our intention is that we try to align the implementation of the new licence condition with the completion and implementation of the industry procedures. We will monitor the progress of the industry procedures at the relevant industry meetings and if these timings are not achievable we will expect the Licensees to notify us in advance. We do not intend to publish the decision notice for the licence modifications until the development of the industry procedures are near completion.
- 5.4. Without the licence requirement being in place, the reporting requirement is therefore not binding. However we have retained the drafting within the Energy Theft CoP as an indication of the reporting arrangements we would expect from companies.
- 5.5. We plan to publish the statutory consultation notice on the proposed licence modification after publishing our final decision paper. We understand that it will take time for the industry to complete their procedures to comply with the Energy Theft CoP and therefore we plan to wait until the industry procedures are near completion before publishing a decision notice on the new licence condition. Our intention therefore would be that we align the implementation of the new licence condition with the completion and implementation of the industry procedures.

Appendix 1: Final Code of Practice for the Theft of Electricity

1. Objective of Code of Practice and obligation to achieve it

- 1.1 The objective of this Code of Practice (CoP) is to ensure that electricity suppliers and distribution network operators work in cooperation with other licence holders where necessary to put best-practice industry procedures in place for the:
- (i) Prevention of Theft of Electricity¹²;
 - (ii) Detection of Theft of Electricity;
 - (iii) Investigation of Theft of Electricity, and;
 - (iv) Managing the Outcome of Investigation into Theft of Electricity.
- 1.2 Compliance with this CoP is a mandatory licence requirement on all electricity suppliers and the electricity distribution network operator (DNO), and therefore any breach of the CoP will be considered a breach of licence. Further, this CoP requires the Licensees to work together and cooperate to establish industry procedures and to implement and comply with the procedures. Therefore any failure by a Licensee to establish and implement such procedures or to comply with such procedures on an ongoing basis would be considered a breach of this CoP and therefore a breach of licence.
- 1.3 Licensees shall research and implement best practice arrangements for the theft-related industry procedures. The Licensees should continue to seek best practice arrangements on an ongoing basis and propose amendments to the industry procedures where appropriate.
- 1.4 Where appropriate, the Licensees should take opportunities to share best practice ideas, arrangements and information between the electricity and gas industry.
- 1.5 This CoP covers domestic and non-domestic electricity premises. Therefore the industry procedures must cover domestic and non-domestic

¹²Theft of Electricity is defined in Section 10 of this CoP

electricity premises in order to comply with this CoP. Disconnection from and reconnection to the electricity network are not within the scope of this CoP. Disconnection and reconnection arrangements are set out in the relevant Licensee's disconnection and reconnection policies.

- 1.6 The industry procedures must include distribution and supply activities and the industry procedures must set out the roles and responsibilities of each party in a clear and transparent way.
- 1.7 The electricity DNO will take a principal coordinator role in developing the required industry procedures; however the DNO and all electricity suppliers must take all reasonable steps to cooperate with other licence holders where necessary, to facilitate the development, implementation and compliance with the industry procedures.
- 1.8 In developing the industry procedures, the Licensees should seek independent views from other parties such as the Health & Safety Executive for Northern Ireland (HSENI) or the Consumer Council (CCNI).
- 1.9 When developing the industry procedures, if situations arise where the Licensees cannot reach agreement on certain issues for the industry procedures, then the Licensees can jointly bring issues to the UR for adjudication. The UR will only consider issues that have been brought by the electricity industry as a group, rather than by individual licence holders.
- 1.10 Any issues referred to the UR for adjudication must be accompanied by background information and evidence relating to the different opinions of the industry participants and the impact of the different options. Where an issue is referred to the UR for adjudication, the UR will make a decision which will be final and the industry must abide by that decision and implement the UR's decision within the industry procedures.
- 1.11 The Licensees must make best endeavors to develop and implement the industry procedures within the timeframes set out by the UR. While developing the industry procedures, the Licensees must provide joint progress reports to the UR every 2 months, or as requested, to explain the progress being made, highlighting any specific issues that may delay the development and implementation of industry procedures against the timeframes set out by the UR.
- 1.12 The Licensees must be a party to, comply with, and maintain such industry procedures.

- 1.13 The industry procedures must include a process for ongoing reviews and changes. This will include pre-planned reviews at set timeframes and also an ability to review the procedures on an ad-hoc basis when it is considered necessary to react to changes in the industry and/or environment. The review process must allow for changes to be proposed by any Licensee that is party to the procedures or by the UR. Any proposed changes by a Licensee should be discussed and agreed collectively before updating the industry procedures. Note that where the UR considers the industry procedures are not best practice arrangements or do not comply with this CoP it may direct the Licensees to review and amend the procedures
- 1.14 The obligations in this CoP and any industry procedures that are implemented will apply to each Licensee and any representatives of the Licensee. For clarity, where a licensed company contracts with a third party for the provision of any services, the licensed company must ensure that the third party complies with all components of this CoP and the industry procedures. Any breaches of this CoP or the industry procedures by a third party will be deemed to be a breach by the licensed company.
- 1.15 Nothing in this CoP is intended to, or should be deemed to, constitute an exemption from existing regulatory requirements and/or obligations under other industry agreements.
- 1.16 Nothing in this CoP is intended to, or should be deemed to, constitute an exemption from each Licensee's legal obligation to comply with any and all relevant legislation, statute, statutory instrument, regulation or order (or any provision thereof) or any subordinate legislation. Licensees are responsible for ensuring that the industry procedures they develop are compliant with all relevant legislation.
- 1.17 Where the UR considers it necessary to amend this CoP it will consult on any proposed changes. The consultation may be restricted to the electricity industry (i.e. any company holding an electricity distribution or supply licence) and may include key stakeholders (e.g. consumer groups and PSNI) or may be a public consultation, depending on the nature of the changes.

2. Principles underpinning the Code of Practice

- 2.1 Each licensed company must comply with the following principles when dealing with all aspects of prevention, detection, investigation and

managing the outcome of investigation of Theft of Electricity. When documenting and implementing industry procedures to deal with Theft of Electricity, each licensed company must consider these principles and ensure that the industry procedures comply with these principles.

1. **Safety** – where any activities are undertaken in accordance with this CoP, safety is a key consideration.
2. **Costs** – Licensees must have processes in place that are clear for all industry participants in order to make reasonable endeavors to recover the costs related to Theft of Electricity. Any charges for costs associated with Theft of Electricity must be fair, transparent and as far as possible must not exceed the associated costs incurred by the Licensees. Supplier charges to customers in relation to amounts owed must adhere to the minimum standards in the CoP for payment of bills.
3. **Prevention, Detection, Investigation and Managing the Outcome of Theft of Electricity through best practice**– Licensees must ensure that effective procedures are in place to proactively Prevent Theft of Electricity, Detect Theft of Electricity, Investigate Theft of Electricity and Manage the Outcome of Theft of Electricity. The procedures adopted should reflect industry best practice and must clearly define the roles and responsibilities of each Licensee in achieving the procedures. Licensees must research best practice and adopt a continuous improvement approach to the procedure for Theft of Electricity.
4. **Communication and reporting** – Licensees must have clear and transparent reporting processes in place between distribution network operators, suppliers and any relevant third parties. Licensees must also have a reporting mechanism in place to enable any third party too easily and, if necessary confidentially, report suspected Theft of Electricity to the relevant Licensees.
5. **Ensure that customers are treated in an appropriate and consistent manner**– In all interactions with customers in relation to Theft of Electricity, each Licensee must behave and act towards customers in a manner which is fair, appropriate, professional and not misleading.
6. **Customer Vulnerability** – In all interactions with customers in relation to Theft of Electricity, each Licensee must take into account whether a domestic customer is vulnerable. In all actions relating to this CoP,

Licensees must give appropriate consideration to the needs of customers in vulnerable circumstances.

7. Investigation by competent individuals –All responsibilities relating to the Theft of Electricity must be carried out by individuals possessing skills, qualifications, experience and authorisation appropriate to the task they are undertaking. Licensees must adequately train all relevant staff in relation to the issues and activities relating to energy theft and the requirements of this CoP.

8. Cooperation. Licensees should cooperate with the Police Service of Northern Ireland, the Health and Safety Executive for Northern Ireland and the Consumer Council for Northern Ireland regarding the requirements of this CoP and their respective regulatory and statutory obligations. Licensees should also have consideration of other related bodies in respect of their statutory role.

3. Requirements for Prevention of Theft of Electricity

- 3.1 In order to comply with this CoP, the Licensees must establish, implement and comply with industry procedures which set out detailed roles, responsibilities and best practice processes for each of the following requirements. The arrangements to achieve each of these requirements must be included in the industry procedures.
- 3.2 The Licensees must take reasonable steps to deter and prevent the Theft of Electricity. The Licensees are required to work together and to cooperate with each other to achieve this.
- 3.3 The DNO will proactively research electricity meters and equipment to keep up to date with technical advancements in equipment aimed at deterring and preventing Theft of Electricity and where possible the DNO will seek to adopt such technologies in delivery of its metering operations on a continuous improvement basis.
- 3.4 As a means of preventing Theft of Electricity, the Licensees should proactively engage with and educate customers, the general public and staff on the dangers and consequences of Theft of Electricity and interference with electricity equipment. They should also publicise the reporting mechanism for reports of any suspected theft, or damaged equipment to the relevant Licensee.

- 3.5 Licensees shall ensure that any customer terms and conditions (T's&C's) that it has with a customer include all relevant terms that would be required to discourage and ultimately deal with any issues relating to Theft of Electricity. This may include supplier T&Cs and also DNO T&Cs where relevant. The Licensee is responsible for ensuring any T&Cs are compliant with all relevant legislation in addition to regulatory requirements for T&Cs (e.g. the Consumer Rights Act 2015 includes requirements in relation to unfair terms in consumer contract which may mean that it can be easier for customers to challenge hidden charges).
- 3.6 The Licensees will keep up-to-date with the latest methods for preventing energy theft so as to ensure that their existing procedures remain fit-for-purpose on a continuous improvement basis.

4. Requirements for Detection of Theft of Electricity

- 4.1 In order to comply with this CoP, the Licensees must establish, implement and comply with industry procedures which set out detailed roles, responsibilities and best practice processes for each of the following requirements. The arrangements to achieve each of these requirements must be included in the industry procedures.
- 4.2 The Licensees must take reasonable steps to detect the Theft of Electricity. The Licensees are required to work together and to cooperate with each other to achieve this.
- 4.3 When visiting properties the Licensees must take all reasonable steps to inspect electricity meters and equipment for evidence of any damage or interference with or tampering of the meter or associated installation or Theft of electricity.
- 4.4 The Licensees shall ensure that all relevant staff are trained on how to identify potential energy theft or evidence of damage or interference with metering equipment and the associated installation.
- 4.5 The Licensees will work in partnership to routinely analyse energy usage and take all reasonable steps to attempt to identify any potential instances of Theft of Electricity.

- 4.6 The Licensees shall have prompt and appropriate reporting processes in place for reporting suspected Theft of Electricity to include:
- a) reporting processes between the DNO and suppliers; and
 - b) reporting processes to enable individuals to inform the DNO and/or suppliers of suspected interference. This should include a telephone number for reporting such information, which could be widely publicised.
- 4.7 The Licensees will keep-up-to-date with the latest methods for detecting energy theft so as to ensure that their existing procedures remain fit-for-purpose on a continuous improvement basis.

5. Requirements for Investigation of Theft of Electricity

- 5.1 In order to comply with this CoP, the Licensees must establish, implement and comply with industry procedures which set out detailed roles, responsibilities and best practice processes for each of the following requirements. The arrangements to achieve each of these requirements must be included in the industry procedures.
- 5.2 The Licensees must take reasonable steps to investigate and deal with the Theft of Electricity. Licensees are required to work together and to cooperate with each other to achieve this.
- 5.3 Where an instance of suspected theft is identified the Licensees must take all reasonable steps to promptly investigate that suspected Theft of Electricity and must have procedures in place setting out the arrangements for such investigations.

Standards for Investigations into Theft of Electricity

- 5.4 The arrangements for carrying out an investigation must include details for how the Licensees will confirm whether the suspected theft did actually occur.
- 5.5 When the DNO identifies suspected Theft of Electricity, or is notified of suspected Theft of Electricity by another party, the DNO must take reasonable endeavours to complete a site visit and inspect the appropriate electricity equipment and associated installation as soon as reasonably possible. Where required, the DNO must take steps to ensure the

electricity supply arrangements to the premises are made safe. To meet reasonable endeavors requirement, if the DNO cannot gain access to the relevant electricity equipment on the first site visit, the DNO should normally make at least one other site visit to the premises to attempt to gain access, except where a second or subsequent visit would represent a safety concern to either DNO staff or consumer(s) or where an additional visit may compromise future attempts to seek access.

- 5.6 When visiting premises to investigate Theft of Electricity, the Licensee shall provide appropriate identification to the customer, state on whose behalf they are calling, and shall act in accordance with their policy on site attendance.
- 5.7 In respect of Theft of Electricity investigations at domestic premises, when either reporting a case of suspected Theft of Electricity or conducting any subsequent visit to a domestic premises, the Licensee should pay particular attention to identify if the domestic customer or anyone living in the domestic property is vulnerable. Where a customer in vulnerable circumstances is identified by the DNO, the DNO shall report this to the registered supplier for the premises. Likewise, where a vulnerable customer is identified by the registered supplier, the registered supplier shall report this to the DNO in advance of the DNO's visit to the premises.
- 5.8 Where reasonably possible, care should be taken to record any communication between the Licensee and the customer or others present at the premises, especially where a vulnerable customer has been identified.
- 5.9 Where possible, Licensees shall gather and consider the relevant information required for the investigation prior to attending premises. Where it is a domestic premises, this shall include checking relevant available information to confirm whether the domestic customer is in vulnerable circumstances – for example the Supplier Care Registers and the DNO Critical Care Registers.
- 5.10 Where all relevant information is not available to Licensees in advance of a visit, it shall be the responsibility of Licensees to attempt to obtain such information during or subsequent to the visit.

- 5.11 Where access to the premises has not been gained after reasonable attempts have been made by the Licensee to visit the premises and gain access, then a warrant should be sought by the Licensees to gain entry to the premises.
- 5.12 Where the Licensee visits the premises and confirms on immediate inspection that there is no evidence of any risk of Theft of Electricity, then no further steps are required. However where Theft of Electricity is evident, or where further inspection and/or testing are required to confirm, then the Licensees must comply with the requirements set out in the following steps.
- 5.13 While any investigation into suspected theft is ongoing, the Licensees must provide in plain language, clear, timely and accurate information and advice to the customer about:
- a) The contact details for the Licensee that they should contact in relation to the investigation. Where different companies are responsible for different aspects of the investigation, then additional contact details can be provided that is clear to the customer which company should be contacted for which activity;
 - b) The reason for the investigation being undertaken and, when it becomes available details of the outcome of the site investigation and details of the outcome of the full investigation including confirmation on whether the suspected Theft of Electricity was confirmed, or not;
 - c) Confirmation of any physical work undertaken (e.g. meter exchange etc);
 - d) Details of any actions the customer may need to take (e.g. actions required to be able to use electricity through new meter etc);
 - e) What the customer can expect next and what the customer can do if they feel they have been unfairly treated; and
 - f) Contact details for further advice and sources of help. This will include relevant Consumer Council information as specified by the Consumer Council from time to time and any other sources that the Licensee may wish to provide.

6. Managing the Outcome of Investigation into Theft of Electricity

- 6.1 Where an investigation into suspected Theft of Electricity confirms that actual Theft of Electricity has occurred and can be proven, the Licensees will be required to comply with the requirements set out in the following steps.
- 6.2 The Licensees will take reasonable steps to prevent the Theft of Electricity once detected at the earliest opportunity.
- 6.3 In taking steps to prevent the Theft of Electricity once detected, the Licensees may, after full assessment of the circumstances, including relevant safety considerations, apply its disconnection policy as granted under its Statutory Disconnection Powers.
- 6.4 The Licensees must cooperate with each other and the PSNI in any investigation into the Theft of Electricity.
- 6.5 All relevant information will be collated relating to the case, including any information obtained during a site visit and information on communication between the Licensees and the customer. This may also include evidence relating to any suspected criminal damage associated with the Theft of Electricity. All relevant information should be processed in accordance with the applicable data protection legislation.
- 6.6 The Licensees must provide in plain language, clear, timely and accurate information and advice to the customer about:
 - a) the contact details for the Licensee responsible for dealing with the customer;
 - b) the basis of any assessment made by the Licensees that Theft of Electricity occurred;
 - c) the details of any physical work undertaken (e.g. meter exchange, removal of meter);
 - d) the basis for the calculation of any costs associated with the Theft of Electricity made to the customer;
 - e) what steps the customer should take if they wish to dispute that

Theft of Electricity occurred;

- f) the steps a customer may take to reinstate supply if the Licensee has exercised the Statutory Disconnection Power;
- g) where legal action is being taken by any Licensees, a statement explaining the legal basis for any action taken; and
- h) contact details for further advice and sources of help. This will include relevant information as specified by the Consumer Council from time to time and any other sources that the Licensee may wish to provide.

6.7 Where the customer is charged by a Licensee for the costs associated with the Theft of Electricity, the Licensee must ensure the following requirements are met:

- a) where the Theft of Electricity involved units of electricity been stolen, then the customer must be provided with details of the number of units stolen and the calculation of the cost associated with the stolen units;
- b) any bills relating to Theft of Electricity must include, on or with the bill, an itemised statement to show separately, as a minimum, any costs relating to units of electricity and any administrative costs associated with the investigation;
- c) where a customer reasonably requests further detail of the bill to be itemised this should be provided on a best endeavours basis.

6.8 Where payment is sought by a Licensee for Theft of Electricity, reasonable efforts will be made to identify to whom charges should be levied. The Licensee will take the circumstances of the Theft of Electricity, the customer's circumstances and the customer's ability to pay into account in deciding what payment arrangements by instalment would be applicable as per the minimum standards for Payment of Bills.

6.9 Where prosecution is an option, the industry procedures must set out the detail on how the decision is made whether to proceed with prosecution. The industry procedures must also set out the roles and responsibilities and best practice steps that the Licensees must take, including with PSNI.

- 6.10 The Licensees will keep-up-to-date with the latest methods for investigating energy theft so as to ensure that their existing procedures remain fit-for-purpose on a continuous improvement basis.

7. Information exchange between Licensees

- 7.1 The exchange of information between Licensees relating to suspected and/or actual Theft of Electricity shall be organised so that they may meet the requirements of this CoP, their licence and applicable law.
- 7.2 Electricity suppliers shall provide information reasonably requested by the DNO for the purpose of enabling the DNO to fulfil its licence obligations to draw up plans for the safe operation, development or maintenance of any electrical system and as it may reasonably request for the purpose of preventing or detecting Theft of Electricity.

8. Resolving Disputes

- 8.1 Where a customer has a complaint related to the Theft of Electricity or suspected Theft of Electricity then they should initially follow the Licensee's complaints handling procedure.
- 8.2 Customers must also be informed of their right to seek help from the Consumer Council in the event that the complainant does not feel that their complaint has been resolved.

9. Compliance Reporting

- 9.1 Each Licensee must keep (and ensure that any Representative keeps) a record of its compliance with its obligations under this CoP.
- 9.2 Where a Licensee has evidence of another Licensee being non-compliant with this CoP, then the UR should be informed. The UR shall assess the complaint and consider the most appropriate course of action to be taken, including any breach of relevant licence conditions.
- 9.3 Each Licensee must provide to the UR, in such manner and at such times as the UR may reasonably require, such information as the UR may deem necessary or appropriate to enable it to monitor the Licensees compliance with this CoP.

- 9.4 Each Licensee must also cooperate with the UR, as and when required, to provide information that will assist the UR to monitor the severity of theft issues and progress in dealing with issues.

10. Definitions

Theft of Electricity: means the theft of electricity, or any electricity plant and/or criminal damage to electricity plant, including electricity meters, tampering with the electricity supply and/or electricity meters.

Appendix 2: Final Code of Practice for the Theft of Gas

1. Objective of Code of Practice and obligation to achieve it

- 1.1 The objective of this Code of Practice (CoP) is to ensure that gas suppliers and distribution network operators work in cooperation with other licence holders where necessary to put best-practice industry procedures in place for the:
- (i) Prevention of Theft of Gas¹³;
 - (ii) Detection of Theft of Gas;
 - (iii) Investigation of Theft of Gas; and
 - (iv) Managing the Outcome of Investigation into Theft of Gas
- 1.2 Compliance with this CoP is a mandatory licence requirement on all gas suppliers and the gas distribution network operators (DNOs), and therefore any breach of the CoP will be considered a breach of licence. Further, this CoP requires the Licensees to work together and cooperate to establish industry procedures and to implement and comply with the procedures. Therefore any failure by a Licensee to establish and implement such procedures or to comply with such procedures on an ongoing basis would be considered a breach of this CoP and therefore a breach of licence.
- 1.3 The Licensees shall research and implement best practice arrangements for the theft-related industry procedures. The Licensees should continue to seek best practice arrangements on an ongoing basis and propose amendments to the industry procedures where appropriate.
- 1.4 Where appropriate, the Licensees should take opportunities to share best practice ideas, arrangements and information between the electricity and gas industry.
- 1.5 This CoP covers domestic and non-domestic gas premises. Therefore the industry procedures must cover domestic and non-domestic gas premises in order to comply with this CoP. Disconnection from and reconnection to

¹³Theft of Gas is defined in Section 10 of this CoP

the gas network are not within the scope of this CoP. Disconnection and reconnection arrangements are set out in the relevant Licensees disconnection and reconnection policies.

- 1.6 The industry procedures must include distribution and supply activities and the industry procedures must set out the roles and responsibilities of each party in a clear and transparent way.
- 1.7 The gas DNOs will share the drafting of the gas industry procedures, with one DNO adopting a principal co-ordinator role in developing the industry procedures; however the DNO with the principal co-ordinator role, other DNOs and all gas suppliers must take all reasonable steps to cooperate with other licence holders where necessary, to facilitate the development, implementation and compliance with the industry procedures.
- 1.8 In developing the industry procedures, the Licensees should seek independent views from other parties such as the Health & Safety Executive for Northern Ireland (HSENI) or the Consumer Council (CCNI).
- 1.9 When developing the industry procedures, if situations arise where the Licensees cannot reach agreement on certain issues for the industry procedures, then the Licensees can jointly bring issues to the UR for adjudication. The UR will only consider issues that have been brought by the gas industry as a group, rather than by individual licence holders.
- 1.10 Any issues referred to the UR for adjudication must be accompanied by background information and evidence relating to the different opinions of the industry participants and the impact of the different options. Where an issue is referred to the UR for adjudication, the UR will make a decision which will be final and the industry must abide by that decision and implement the UR's decision within the industry procedures.
- 1.11 The Licensees must make best endeavors to develop and implement the industry procedures within the timeframes set out by the UR. While developing the industry procedures, the Licensees must provide joint progress reports to the UR every 2 months or as requested to explain the progress being made, highlighting any specific issues that may delay the development and implementation of industry procedures against the timeframes set out by the UR.
- 1.12 The Licensees must be a party to, comply with, and maintain such industry procedures.

- 1.13 The industry procedures must include a process for ongoing reviews and changes. This will include pre-planned reviews at set timeframes and also an ability to review the procedures on an ad-hoc basis when it is considered necessary to react to changes in the industry and/or environment. The review process must allow for changes to be proposed by any Licensee that is party to the procedures or by the UR. Any proposed changes by a Licensee should be discussed and agreed collectively before updating the industry procedures. Note that where the UR considers the industry procedures are not best practice arrangements or do not comply with this CoP it may direct the Licensees to review and amend the procedures
- 1.14 The obligations in this CoP and any industry procedures that are implemented will apply to each Licensee and any representatives of the Licensee. For clarity, where a licensed company contracts with a third party for the provision of any services, the licensed company must ensure that the third party complies with all components of this CoP and the industry procedures. Any breaches of this CoP or the industry procedures by a third party will be deemed to be a breach by the licensed company.
- 1.15 Nothing in this CoP is intended to, or should be deemed to, constitute an exemption from existing regulatory requirements and/or obligations under other industry agreements.
- 1.16 Nothing in this CoP is intended to, or should be deemed to, constitute an exemption from each Licensees legal obligation to comply with any and all relevant legislation, statute, statutory instrument, regulation or order (or any provision thereof) or any subordinate legislation. Licensees are responsible for ensuring that the industry procedures they develop are compliant with all relevant legislation.
- 1.17 Where the UR considers it necessary to amend this CoP it will consult on any proposed changes. The consultation may be a restricted to the gas industry (i.e. any company holding a gas distribution or supply licence) and may include key stakeholders (e.g. consumer groups and PSNI) or may be a public consultation, depending on the nature of the changes.

2. Principles underpinning the Code of Practice

- 2.1 Each licensed company must comply with the following principles when dealing with all aspects of prevention, detection, investigation and managing the outcome of investigation of Theft of Gas. When

documenting and implementing industry procedures to deal with Theft of Gas, each licensed company must consider these principles and ensure that the industry procedures comply with these principles.

- 1. Safety** – where any activities are undertaken in accordance with this CoP, safety is a key consideration.
- 2. Costs** – Licensees must have processes in place that are clear for all industry participants in order to make reasonable endeavors to recover the costs related to Theft of Gas. Any charges for costs associated with Theft of Gas must be fair, transparent and as far as possible must not exceed the associated costs incurred by the Licensees. Supplier charges to customers in relation to amounts owed must adhere to the principles in the minimum standards in the CoP for payment of bills.
- 3. Prevention, Detection, Investigation and Manage the Outcome of Theft of Gas through best practice**– Licensees must ensure that effective procedures are in place to proactively prevent Theft of Gas, detect Theft of Gas, investigate Theft of Gas and manage the Outcome of Theft of Gas. The procedures adopted should reflect industry best practice and must clearly define the roles and responsibilities of each Licensee in achieving the procedures. Licensees must research best practice and adopt a continuous improvement approach to the procedure for Theft of Gas.
- 4. Communication and reporting** – Licensees must have clear and transparent reporting processes in place between distribution network operators, suppliers and any relevant third parties. Licensees must also have a reporting mechanism in place to enable any third party too easily and, if necessary confidentially, report suspected Theft of Gas to the relevant Licensees.
- 5. Ensure that consumers are treated in an appropriate and consistent manner**– In all interactions with consumers in relation to Theft of Gas, each Licensee must behave and act towards customers in a manner which is fair, appropriate, professional and not misleading.
- 6. Customer Vulnerability** – In all interactions with customers in relation to Theft of Gas, each Licensee must take into account whether a domestic customer is vulnerable. In all actions relating to this CoP, Licensees must give appropriate consideration to the needs of customers in vulnerable circumstances.

7. Investigation by competent individuals – All responsibilities relating to the Theft of Gas must be carried out by individuals possessing skills, qualifications, experience and authorisation appropriate to the task they are undertaking. Licensees must adequately train all relevant staff in relation to the issues and activities relating to energy theft and the requirements of this CoP.

8. Cooperation. Licensees should cooperate with the Police Service of Northern Ireland, the Health and Safety Executive for Northern Ireland and the Consumer Council for Northern Ireland regarding the requirements of this CoP and their respective regulatory and statutory obligations. Licensees should also have consideration of other related bodies in respect of their statutory role.

3. Requirements for Prevention of Theft of Gas

- 3.1 In order to comply with this CoP, the Licensees must establish, implement and comply with industry procedures which set out detailed roles, responsibilities and best practice processes for each of the following requirements. The arrangements to achieve each of these requirements must be included in the industry procedures.
- 3.2 The Licensees must take reasonable steps to deter and prevent the Theft of Gas. The Licensees are required to work together and to cooperate with each other to achieve this.
- 3.3 The DNOs will proactively research gas meters and equipment to keep up to date with technical advancements in equipment aimed at preventing Theft of Gas and where possible the DNOs will seek to adopt such technologies in delivery of its metering operations on a continuous improvement basis.
- 3.4 As a means of preventing Theft of Gas, the Licensees should proactively engage with and educate consumers, the general public and staff on the dangers and consequences of Theft of Gas and interference with gas equipment. They should also publicise the reporting mechanism for reports of any suspected theft, or damaged equipment to the relevant Licensee.
- 3.5 Licensees shall ensure that any customer terms and conditions (T's&C's) that it has with a customer include all relevant terms that would be required to discourage and ultimately deal with any issues relating to Theft of Gas.

This may include supplier T&Cs and also DNO T&Cs where relevant. The Licensee is responsible for ensuring any T&Cs are compliant with all relevant legislation in addition to regulatory requirements for T&Cs (e.g. the Consumer Rights Act 2015 includes requirements in relation to unfair terms in consumer contract which may mean that it can be easier for customers to challenge hidden charges).

- 3.6 The Licensees will keep-up-to-date with the latest methods for preventing energy theft so as to ensure that their existing procedures remain fit-for-purpose on a continuous improvement basis.

4. Requirements for Detection of Theft of Gas

- 4.1 In order to comply with this CoP, the Licensees must establish, implement and comply with industry procedures which set out detailed roles, responsibilities and best practice processes for each of the following requirements. The arrangements to achieve each of these requirements must be included in the industry procedures.
- 4.2 The Licensees must take reasonable steps to detect the Theft of Gas. The Licensees are required to work together and to cooperate with each other to achieve this.
- 4.3 When visiting properties the Licensees must take all reasonable steps to inspect gas meters and equipment for evidence of any damage or interference with or tampering of the meter or associated installation or Theft of Gas.
- 4.4 The Licensees shall ensure that all relevant staff are trained on how to identify potential energy theft or evidence of damage or interference with metering equipment and the associated installation.
- 4.5 The Licensees will work in partnership to routinely analyse energy usage and take all reasonable steps to attempt to identify any potential instances of Theft of Gas.
- 4.6 The Licensees shall have prompt and appropriate reporting processes in place for reporting suspected Theft of Gas to include:
- a) reporting processes between the DNOs and suppliers; and

b) reporting processes to enable individuals to inform the DNO and/or suppliers of suspected interference. This should include a telephone number for reporting such information, which could be widely publicised.

- 4.7 The Licensees will keep-up-to-date with the latest methods for detecting energy theft so as to ensure that their existing procedures remain fit-for-purpose on a continuous improvement basis.

5. Requirements for Investigation of Theft of Gas

- 5.1 In order to comply with this CoP, the Licensees must establish, implement and comply with industry procedures which set out detailed roles, responsibilities and best practice processes for each of the following requirements. The arrangements to achieve each of these requirements must be included in the industry procedures.
- 5.2 The Licensees must take reasonable steps to investigate and deal with the Theft of Gas. The Licensees are required to work together and to cooperate with each other to achieve this.
- 5.3 Where an instance of suspected theft is identified the Licensees must take all reasonable steps to promptly investigate that suspected Theft of Gas and must have procedures in place setting out the arrangements for such investigations.

Standards for Investigations into Theft of Gas

- 5.4 The arrangements for carrying out an investigation must include details for how the Licensees will confirm whether the suspected theft did actually occur.
- 5.5 When the DNO identifies suspected Theft of Gas, or is notified of suspected Theft of Gas by another party, the DNO must take reasonable endeavours to complete a site visit and inspect the appropriate gas equipment and associated installation as soon as reasonably possible. Where required, the DNO must take steps to ensure the gas supply arrangements to the premises are made safe. To meet reasonable endeavors requirement, if the DNO cannot gain access to the relevant gas equipment on the first site visit, the DNO should normally make at least one other site visit to the premises to attempt to gain access, except where a

second or subsequent visit would represent a safety concern to either staff or consumer(s) or where an additional visit may compromise future attempts to seek access.

- 5.6 When visiting premises to investigate Theft of Gas, the Licensee shall provide appropriate identification to the consumer, state on whose behalf they are calling, and shall act in accordance with their policy on site attendance.
- 5.7 In respect of Theft of Gas investigations at domestic premises, when either reporting a case of suspected Theft of Gas or conducting any subsequent visit to a domestic premises, the Licensee should pay particular attention to identify if the domestic customer or anyone living in the domestic property is vulnerable. Where a customer in vulnerable circumstances is identified by the DNO, the DNO shall report this to the registered supplier for the premises. Likewise, where a vulnerable customer is identified by the registered supplier, the registered supplier shall report this to the DNO in advance of the DNO's visit to the premises.
- 5.8 Where reasonably possible, care should be taken to record any communication between the Licensee and the consumer or others present at the premises, especially where a vulnerable customer has been identified.
- 5.9 Where possible, Licensees shall gather and consider the relevant information required for the investigation prior to attending premises. Where it is a domestic premises, this shall include checking relevant available information to confirm whether the domestic consumer is in vulnerable circumstances - for example the Supplier Care Registers and the DNO Critical Care Registers.
- 5.10 Where all relevant information is not available to Licensees in advance of a visit, it shall be the responsibility of Licensees to attempt to obtain such information during or subsequent to the visit.
- 5.11 Where access to the premises has not been gained after reasonable attempts have been made by the Licensee to visit the premises and gain access, then a warrant should be sought by the Licensees to gain entry to the premises.

- 5.12 Where the Licensee visits the premises and confirms on immediate inspection that there is no evidence of any risk of Theft of Gas, then no further steps are required. However where Theft of Gas is evident, or where further inspection and/or testing are required to confirm, then the Licensees must comply with the requirements set out in the following steps.
- 5.13 While any investigation into suspected theft is ongoing, the Licensees must provide in plain language, clear, timely and accurate information and advice to the consumer about:
- a) The contact details for the Licensee that they should contact in relation to the investigation. Where different companies are responsible for different aspects of the investigation, then additional contact details can be provided that is clear to the consumer which company should be contacted for which activity;
 - b) The reason for the investigation being undertaken and, when it becomes available details of the outcome of the site investigation and details of the outcome of the full investigation including confirmation on whether the suspected Theft of Gas was confirmed, or not;
 - c) Confirmation of any physical work undertaken (e.g. meter exchange etc);
 - d) Details of any actions the consumer may need to take (e.g. actions required to be able to use gas through new meter etc);
 - e) What the consumer can expect next and what the consumer can do if they feel they have been unfairly treated; and
 - f) Contact details for further advice and sources of help. This will include relevant Consumer Council information as specified by the Consumer Council from time to time and any other sources that the Licensee may wish to provide

6. Manage the Outcome of Investigation into Theft of Gas

- 6.1 Where an investigation into suspected Theft of Gas confirms that actual Theft of Gas has occurred and can be proven, the Licensees will be required to comply with the requirements set out in the following steps.

- 6.2 The Licensees will take reasonable steps to prevent the Theft of Gas once detected at the earliest opportunity.
- 6.3 In taking steps to prevent the Theft of Gas once detected, may, after full assessment of the circumstances, including relevant safety considerations, apply its disconnection policy as granted under its Statutory Disconnection Powers.
- 6.4 The Licensees must cooperate with each other and the PSNI in any investigation into the Theft of Gas.
- 6.5 All relevant information will be collated relating to the case, including any information obtained during a site visit and information on communication between the Licensees and the consumer. This may also include evidence relating to any suspected criminal damage associated with the Theft of Gas. All relevant information should be processed in accordance with the applicable data protection legislation.
- 6.6 The Licensees must provide in plain language, clear, timely and accurate information and advice to the consumer about:
 - a) the contact details for the Licensee responsible for dealing with the consumer;
 - b) the basis of any assessment made by the Licensees that Theft of Gas occurred;
 - c) the details of any physical work undertaken (e.g. meter exchange, removal of meter);
 - d) the basis for the calculation of any costs associated with the Theft of Gas made to the consumer;
 - e) what steps the consumer should take if they wish to dispute that Theft of Gas occurred;
 - f) the steps a consumer may take to reinstate supply if the Licensee has exercised the Statutory Disconnection Power;
 - g) where legal action is being taken by any Licensees, a statement explaining the legal basis for any action taken; and

- h) Contact details for further advice and sources of help. This will include relevant Consumer Council information as specified by the Consumer Council from time to time and any other sources that the Licensee may wish to provide
- 6.7 Where the consumer is charged by a Licensee for the costs associated with the Theft of Gas, the Licensee must ensure the following requirements are met;
- a) where the Theft of Gas involved units of gas been stolen, then the consumer must be provided with details of the number of units stolen and the calculation of the cost associated with the stolen units;
 - b) any bills relating to Theft of Gas must include, on or with the bill, an itemised statement to show separately, as a minimum, any costs relating to units of gas, and any administrative costs associated with the investigation;
 - c) where a consumer reasonably requests further detail of the bill to be itemised this should be provided on a best endeavours basis.
- 6.8 Where payment is sought by a Licensee for Theft of Gas, reasonable efforts will be made to identify to whom charges should be levied. The Licensee will take the circumstances of the Theft of Gas, the consumer's circumstances and the consumer's ability to pay into account in deciding whether payment arrangements by instalment would be applicable as per the minimum standards for Payment of Bills.
- 6.9 Where prosecution is an option, the industry procedures must set out the detail on how the decision is made whether to proceed with prosecution. The industry procedures must also set out the roles and responsibilities and best practice steps that the Licensees must take, including with PSNI.
- 6.10 The Licensees will keep-up-to-date with the latest methods for investigating energy theft so as to ensure that their existing procedures remain fit-for-purpose on a continuous improvement basis.

7. Information exchange between Licensees

- 7.1 The exchange of information between Licensees relating to suspected

and/or actual Theft of Gas shall be organised so that they may meet the requirements of this CoP, their licence and applicable law.

- 7.2 Gas suppliers shall provide information reasonably requested by the DNOs for the purpose of enabling the DNO to fulfil its licence obligations to draw up plans for the safe operation, development or maintenance of any gas system and as it may reasonably request for the purpose of preventing, detecting, investigating or managing the outcome of investigation into Theft of Gas.

8. Resolving Disputes

- 8.1 Where a consumer has a complaint related to the Theft of Gas or suspected Theft of Gas then they should initially follow the Licensees complaints handling procedure.
- 8.2 Consumers must also be informed of their right to seek help from the Consumer Council in the event that the complainant does not feel that their complaint has been resolved.

9. Compliance Reporting

- 9.1 Each Licensee must keep (and ensure that any Representative keeps) a record of its compliance with its obligations under this CoP.
- 9.2 Where a Licensee has evidence of another Licensee being non-compliant with this CoP, then the UR should be informed. The UR shall assess the complaint and consider the most appropriate course of action to be taken, including any breach of relevant licence conditions. Each Licensee must provide to the UR, in such manner and at such times as the UR may reasonably require, such information as the UR may require or deem necessary or appropriate to enable it to monitor the Licensees compliance with this CoP.
- 9.3 Each Licensee must also cooperate with the UR, as and when required, to provide information that will assist the UR to monitor the severity of theft issues and progress in dealing with issues.

10. Definitions

Theft of Gas: means the theft of gas, or any gas plant and/or criminal damage to gas plant, including gas meters, tampering with the gas supply and/or gas meters.