

DISCONNECTION PROTOCOL FOR COMMON PARTS OF BLOCKS OF FLATS

Introduction

Readers will be aware of previous articles in our newsletter about the dangers of having the energy common supply disconnected following non-payment of invoices, perhaps due to misunderstandings, cash flow problems with the service charge or for other reasons.

FPRA were involved in discussions with various parties to see what could be done and we were very pleased when ARMA took this issue up and were able to agree a procedure with the energy companies, to be followed before disconnection took place. The press release issued to launch the agreement did not make clear whether the procedure applied to blocks managed by ARMA members or across the board. The FPRA felt that there would be no way for the energy companies to know which blocks were managed by ARMA members and which weren't.

FPRA decided we should approach the energy companies to clarify this issue and to make certain that the protocol applied to all blocks of flats irrespective of membership of ARMA, FPRA or any other group. We are pleased to report that the energy companies have confirmed this.

Here is the full text of the protocol, detailing the agreement reached. Note that the Energy Retail Association has since merged with other trade associations to become Energy UK. The member companies represented by Energy UK in relation to this agreement are: British Gas, EDF Energy, npower, E.ON, ScottishPower and SSE. SSE supplies energy under the Southern Electric, Scottish Hydro, SWALEC and Atlantic brands.

If, however, you are aware that you may have difficulty paying your energy bills for whatever reason, we would recommend that you contact your supplier at the earliest possible opportunity, who will try and work with you to reach an amicable resolution.

DISCONNECTION PROTOCOL FOR COMMON PARTS OF BLOCKS OF FLATS

This protocol seeks to establish the roles and responsibilities of Energy UK members and Freeholders, where disconnection is considered as a sanction for non-payment.

It should also act as a guide to help avoid disconnections by addressing the issue earlier in the debt collection pathway. Disconnection will not take place at any time up until the appointed time if payment is received, and cleared where relevant, in full.

Where the individual flats are separately metered

All energy suppliers only use disconnection as a last resort. Suppliers will make every effort to contact the Freeholder, before resorting to disconnection.

Prior to disconnection the landlord will typically have received:

- 6 attempts to contact through correspondence
- 1 attempt by telephone
- 1 attempt to contact by personal visit to the property
- 1 attempt to contact by visit to court
- A final attempt at warrant execution

The last four of these steps will always be taken, even if there has been prior contact. During this process the supplier will also attempt to establish and consider the impact on the residents and what action may be taken to mitigate this:

- Would disconnection be likely to affect the fire safety of the block by disconnecting any fire alarm, emergency lighting, common heating and smoke alarms?
- Would disconnection be likely to affect the water and sewerage supplies to flats because it needs to be pumped in taller blocks?
- Would the disconnection be likely to affect the working of the lifts in the block and so deny access to vulnerable residents?
- Are there any vulnerable residents who may be particularly affected by disconnection of the supply to the common parts?

Based on the steps carried out above, at least 7 days before the proposed disconnection the supplier will, where relevant to the risk factors listed above:

- Inform the local authority of the circumstances;
- Inform the local fire service if it considers it likely that the fire safety of the block will be affected; and/or
- Inform the relevant utility supplier and/or environmental health if it considers that the water and sewerage supplies are likely to be affected.

Where the Common Parts Supply also Supplies the Flats

It must be remembered that the supplier has no direct contact nor contract with the residents; the supplier's legal relationship is with the Freeholder or its representative. The Freeholder is responsible for payment of the energy account and for liaising with individual residents. However, where a domestic customer takes their electricity through a non-domestic supply, energy suppliers will ensure that their business teams are aware of the provisions within the Safety Net² to minimise the risk that any vulnerable domestic customer who has this kind of supply is disconnected.

In addition to the steps in section 1 above, the supplier will make reasonable attempts to inform all residents of the possible disconnection. It will also attempt to remind the landlord of its responsibilities to the residents, particularly those who are vulnerable.

Freeholders who are indebted to an energy supplier should:

- Contact their supplier at the earliest possible opportunity if they are aware that they may have difficulty paying their energy bills for whatever reason.
- Inform their supplier if they are aware of a vulnerable customer living in their block.
- Inform their supplier what impact disconnection would have on the block
- Prioritise invoices for insurance and utilities before other suppliers if funds are short.
- Go to the Lessees or if appointed managing agent for instructions about how to pay the debt.
- If funds are short, ask residents to bring forward their next payment of service charges.

EXPLANATORY NOTES NOT PART OF THE PROTOCOL

1. Freeholders in this protocol refers to Resident Management Companies, Flat Management Companies, Right to Manage companies and Commonhold Associations, with whom Energy UK members have a contractual relationship. Many Freeholders of privately owned blocks of flats are small non-profit making companies comprised of the owners themselves. These companies often have no reserves or capital assets. A few late or bad payers can easily disrupt the cash flow of the service charge account which pays for the electricity to common parts.

2. ERA established a voluntary Safety Net in 2004 that gave a commitment from industry not to knowingly disconnect a vulnerable customer. The Safety Net definition is that a customer is vulnerable if for reasons of age, health, disability or severe financial insecurity, they are unable to safeguard their personal welfare or the personal welfare of other members of the household. In 2011 a commitment from all suppliers was made to re-connect within 24 hours a customer who has been disconnected who subsequently turns out to be vulnerable. Suppliers have also committed to follow up any customer who has been disconnected and who has not made contact to check again that they are not vulnerable.

3. The Safety Net covers energy suppliers' relationship with domestic customers. In the case of common parts of blocks of flats, the customer is the Freeholder and suppliers do not have a relationship with the residents, vulnerable or otherwise. The responsibility of avoiding disconnection by paying energy bills for common parts therefore falls upon the Freeholder, who is not a domestic customer and to whom the Safety Net does not apply. This protocol is therefore intended to ensure reasonable steps are taken to help minimise instances of disconnection of common parts in privately owned blocks of flats, where the Safety Net does not apply.

4. There are few instances of disconnection of common parts of flats but they can adversely affect residents when they happen. Because of a failure of the landlord to pay for the energy supply, fire alarms, emergency lighting, lifts, and water and sewerage supplies can be affected. This protocol is about privately owned flats, not flats rented from a social landlord. There is no pool of rental income to pay bills. Owners (leaseholders and Commonholders) pay service charges each year to cover the cost of services to common parts.

5. The member companies represented by Energy UK in relation to this agreement are: British Gas, EDF Energy, npower, E.ON, ScottishPower and SSE. SSE supplies energy under the Southern Electric, Scottish Hydro, SWALEC and Atlantic brands.