

Appendix 1: ~~Draft~~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 Electricity¹;
 - (ii) Detection of Theft of Electricity; ~~and~~
 - ~~(iii)~~ (iii) Investigation of Theft of Electricity, ~~and~~;
 - ~~(iii)~~(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 ~~DNO and suppliers~~Licensees to work together and cooperate to establish industry procedures and to implement and comply with the procedures. Therefore any failure by a ~~licensee~~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 DNO and suppliers~~Licensees shall research and implement best practice arrangements for the theft-related industry procedures. The ~~DNO and suppliers~~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 ~~DNO and suppliers~~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 ~~business~~non-domestic electricity premises. Therefore the industry procedures must cover domestic and ~~business~~non-domestic 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

¹Theft of Electricity is defined in Section ~~9~~10 of this CoP

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 ~~DNO and suppliers~~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 ~~DNO and suppliers~~Licensees cannot reach agreement on certain issues for the industry procedures, then the ~~DNO and suppliers~~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 ~~DNO and suppliers~~Licensees must make best endeavors to develop and implement the industry procedures within the timeframes set out by the ~~Utility Regulator (UR)~~UR. While developing the industry procedures, the ~~DNO and suppliers~~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 ~~DNO and all active suppliers~~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~~Licensee that is party to the procedures or by the ~~Utility Regulator (UR)~~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 ~~DNO and suppliers~~Licensees to review and amend the procedures

- 1.14 The obligations in this ~~Code of Practice~~CoP and any industry procedures that are implemented will apply to each ~~licensee~~Licensee and any representatives of the ~~licensee~~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 ~~Code of Practice~~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 ~~Code of Practice~~CoP is intended to, or should be deemed to, constitute an exemption from each ~~licensee's~~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 ~~Utility Regulator~~UR considers it necessary to amend this CoP it will consult on any proposed changes. The consultation may be a 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 ~~Code of Practice~~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 ~~associated with~~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 ~~actual~~associated costs incurred by the ~~licensees~~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 ~~and~~, Investigation and Managing the Outcome of Theft of Electricity through best practice**— Licensees must ensure that effective procedures are in place to proactively ~~discourage~~Prevent Theft of Electricity, ~~identify~~Detect Theft of Electricity, Investigate Theft of Electricity and ~~deal with~~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~~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 ~~to~~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~~Licensee must behave and act towards customers in a manner which is fair, ~~not misleading,~~ appropriate ~~and,~~ professional ~~and not misleading.~~
6. **Customer Vulnerability** – In all interactions with customers in relation to Theft of Electricity, each ~~licensee~~Licensee must take into account whether a domestic customer is ~~a vulnerable customer.~~ In all actions relating to this CoP, Licensees must give appropriate consideration to the needs of ~~Vulnerable Customers~~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 ~~code of practice~~ 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 ~~DNO and suppliers~~ 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.

3.13.2 The ~~DNO and suppliers~~ Licensees must take reasonable steps to deter and prevent the Theft of Electricity. The ~~DNO and suppliers~~ Licensees are required to work together and to cooperate with each other to achieve this.

3.23.3 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.

3.33.4 As a means of ~~detering and~~ preventing Theft of Electricity, the ~~DNO and electricity suppliers~~ 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~~ Licensee.

3.43.5 Licensees shall ensure that any customer terms and ~~condition (T&C 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~~ 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).

3.53.6 The ~~DNO~~ 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 ~~DNO and suppliers~~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.

4.14.2 The ~~DNO and suppliers~~Licensees must take reasonable steps to detect the Theft of Electricity. The ~~DNO and suppliers~~Licensees are required to work together and to cooperate with each other to achieve this.

4.24.3 When visiting properties the ~~DNO and suppliers~~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~~electricity.

4.34.4 The ~~DNO and suppliers~~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.

4.44.5 ~~Electricity suppliers shall~~The Licensees will work in partnership to routinely analyse energy usage ~~of their customers to and~~ take all reasonable steps to attempt to identify any potential instances of Theft of Electricity.

4.54.6 The ~~DNO and suppliers~~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 ~~could~~should include a telephone number for reporting such information, which could be widely publicised.

4.64.7 The ~~DNO~~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 ~~DNO and suppliers~~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.

~~5.15.2~~ The ~~DNO and suppliers~~Licensees must take reasonable steps to investigate and deal with the Theft of Electricity. ~~The DNO and suppliers~~Licensees are required to work together and to cooperate with each other to achieve this.

~~5.25.3~~ Where an instance of suspected theft is identified the ~~DNO and suppliers~~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

~~5.35.4~~ The arrangements for carrying out an investigation must include details for how the ~~licensees~~Licensees will confirm whether the suspected theft did actually occur.

~~5.45.5~~ When the DNO identifies suspected Theft of Electricity, or is notified of suspected Theft of Electricity by another party, the DNO must take reasonable ~~endeavors~~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 ~~must~~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.

~~5.55.6~~ When visiting premises to investigate Theft of Electricity, the ~~licensee~~Licensee shall provide appropriate identification to the customer ~~and~~, state on whose behalf they are calling, and shall ~~and~~ act in accordance with their policy on site attendance.

~~5.65.7~~ 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 ~~premise~~premises, the ~~licensee~~Licensee should pay particular attention to identify if the domestic customer or anyone living in the domestic property is ~~a Vulnerable Customer~~vulnerable. Where a ~~Vulnerable Customer~~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~~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.

5.75.8 Where reasonably possible, care should be taken to record any communication between the ~~licensee~~Licensee and the customer or others present at the premises, especially where a ~~Vulnerable Customer~~vulnerable customer has been identified.

5.85.9 Where possible, ~~licensees~~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 ~~a Vulnerable Customer~~in vulnerable circumstances – for example the Supplier Care Registers and the DNO Critical Care Registers.

5.95.10 _____ Where all relevant information is not available to ~~licensees~~Licensees in advance of a visit, it shall be the responsibility of ~~licensees~~Licensees to attempt to obtain such information during or subsequent to the visit.

5.105.11 _____ Where access to the premises has not been gained after reasonable attempts have been made by the ~~DNO Licensee~~ to visit the premises and gain access, then a warrant should be sought by the ~~licensees~~Licensees to gain entry to the premises.

5.115.12 _____ Where the ~~DNO 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~~Licensees must comply with the requirements set out in the following steps.

5.125.13 _____ While any investigation into suspected theft is ongoing, the ~~licensees~~Licensees must provide in plain language, clear, timely and accurate information and advice to the customer about:

- a) The contact details for the ~~licensee~~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's 'Support and advice in Northern Ireland' information sheet Council from time to time and any other sources that the licensee Licensee may wish to provide.

6. Managing the Outcome of Investigation into Theft of Electricity

~~5.136.1~~ Where an investigation into suspected Theft of Electricity confirms that actual Theft of Electricity has occurred and can be proven, the ~~licensees~~ Licensees will be required to comply with the requirements set out in the following steps.

~~5.146.2~~ The ~~licensees~~ Licensees will take reasonable steps to prevent the Theft of Electricity once detected at the earliest opportunity.

~~5.156.3~~ In taking steps to prevent the Theft of Electricity once detected, the ~~licensees shall ensure that:~~ Licensees may, after full assessment of the circumstances, including relevant safety considerations, apply its disconnection policy as granted under its Statutory Disconnection Powers.

- ~~a) its Statutory Disconnection Powers² are only exercised where it reasonably believes that there is sufficient evidence to prove (on the balance of probabilities) that Theft of Electricity has been committed;~~
- ~~b) its Statutory Disconnection Powers are only exercised where it reasonably believes that there is sufficient evidence to prove (on the balance of probabilities) that the Theft of Electricity was committed by the current occupier (or owner) of the Premises; and~~
- ~~c) it does not mislead customers about the scope of its Statutory Disconnection Powers.~~

~~5.16~~ The ~~licensees~~ will identify the person who either intentionally or by culpable negligence is responsible for the Theft of Electricity (referred to as the customer).

²Note that Statutory Powers may be invoked for other reasons such as safety issues.

6.4 The Licensees must cooperate with each other and the PSNI in any investigation into the Theft of Electricity.

~~5.176.5~~ 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~~Licensees and the customer. This may also include evidence relating to any suspected criminal damage associated with the Theft of Electricity. ~~All information will be stored securely and destroyed after a period of time. No information will be retained longer than reasonably required.~~All relevant information should be processed in accordance with the applicable data protection legislation.

~~5.186.6~~ The ~~licensees~~Licensees must provide in plain language, clear, timely and accurate information and advice to the customer about:

- a) the contact details for the ~~licensee~~Licensee responsible for dealing with the customer;
- b) the basis of any assessment made by the ~~licensees~~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~~Licensee has exercised the Statutory Disconnection Power;
- g) where legal action is being taken by any ~~licensees~~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's 'Support and advice in Northern Ireland' information sheet~~Council from time to time and any other sources that the ~~licensee~~Licensee may wish to provide.

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

5.19

- 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~~Licensee for Theft of Electricity, reasonable efforts will be made to identify to whom charges should be levied. The ~~licensee~~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.

~~5.20~~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~~Licensees must take, including with PSNI.

~~5.21~~6.10 The ~~DNO~~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.

6.7. **Information exchange between ~~licensees~~Licensees**

~~6.17.1~~ The exchange of information between ~~licensees~~Licensees relating to suspected and/or actual Theft of Electricity shall ~~meet the reasonable requirements of the licensees involved~~be organised so that they may meet the requirements of this ~~code of practice~~CoP, their licence and applicable law.

~~6.27.2~~ Electricity suppliers shall provide information reasonably requested by the DNO for the purpose of enabling ~~the DNO~~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.

7.8. Resolving Disputes

~~7.18.1~~ 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~~Licensee's complaints handling procedure.

~~7.2~~ ~~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.~~

~~7.3~~ ~~Where a licensee has evidence of another licensee being non-compliant with this Code of Practice, then the Utility Regulator should be informed. The Utility Regulator shall consider the complaint including any breach of relevant licence conditions.~~

~~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.

8.9. Compliance Reporting

~~8.19.1~~ Each ~~licensee~~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.

~~8.29.3~~ Each ~~licensee~~Licensee must provide to the ~~Utility Regulator~~UR, in such manner and at such times as the ~~Utility Regulator~~UR may reasonably require, such information as the ~~Utility Regulator~~UR may ~~require or~~ deem necessary or appropriate to enable it to monitor the ~~licensee's~~Licensees compliance with this CoP.

~~8.39.4~~ Each ~~licensee~~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.

9.10. 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.

~~**Vulnerable Customer: Means a domestic consumer who is of pensionable age, disabled or chronically**~~