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Care & Repair Cymru

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## Ofgem SoLR Levy Offset consultation

### Care & Repair Cymru:

Care & Repair are Wales' older people's housing champions. We help our clients to live independently in warm, safe, accessible homes by delivering housing adaptations and home improvements. We offer a holistic casework service including a whole house assessment taken from a national framework, including a falls risk assessment, welfare benefits check and home safety information and advice. In 2022-23 we delivered the following:

- 62,607 older people helped to stay independent at home.
- Completed 20,438 Rapid Response Adaptations to prevent accidents at home.
- Completed 65,127 jobs in the home to a value of £18.3 million.
- Helped clients claim £9.5 million in unclaimed benefits.

#### Q1. Do you agree with our problem statement?

Yes, Care & Repair Cymru agrees with the problem statement set out by Ofgem and welcomes that Ofgem have identified an area of the energy sector that directly negates the principle of fairness. The problem statement outlines how all domestic consumers have seen an increase in their energy bills as they are paying for the Supplier of Last Resort (SoLR) levy through their standing charges. Since the beginning of the energy crisis in Autumn 2021, the SoLR Levy has thus far cost consumers £2.35 billion. This cost directly impacts standing charges which have increased by around 60% since 2021. Higher standing charges penalise low energy consumers who are trying to minimise energy consumption and save on bills; it means these households are still paying high costs for energy despite not using it. We believe that it is morally wrong that low-income, low-usage households currently pay for energy companies' mismanagement of their assets. This problem is particularly prevalent for our clients living in North Wales, an area that has seen the highest increase in charges, paying on average £82 more per year than households in London.

Care & Repair represents older people living in Wales to keep them safe and warm in their homes. Since 2021, we have seen an exponential increase in need for our services; vulnerable households are struggling to keep the heating on at home whilst they grapple with increasing costs. We agree with Ofgem's problem statement which recognises the unfair nature that the failure of an energy supplier imposes significant cost to consumers whilst suppliers do not contribute to these costs, in some cases shareholders even benefit from the surplus of a failed supplier assets. This directly contradicts Ofgem's commitment to the Fair Prices objectives in the consumer interest's framework and deepens existing inequality for households experiencing fuel poverty. Overall, we welcome that Ofgem is taking lessons learnt from the energy crisis of 2021 and are reevaluating the way in which energy supplier failure is managed.



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**Q2. What are your overall views on whether the proposal would deliver on the aims of the SoLR levy Offset?**

Care & Repair welcomes Ofgem’s proposals that would require energy suppliers to commit to arrangements in their license conditions which would create an obligation for the failed supplier to pay the distribution network companies the amount of the SoLR levy claim. We agree with the proposals to include this in licensing conditions to create contractual responsibility from the supplier, thus mitigating the cost impact on consumers. We agree with this proposal to ensure gas and electricity distribution networks would be able to claim as a creditor of the failed supplier, to be paid before shareholders receive a return on investment. We welcome this move to create a fairer system in the energy market; we reject the current system which sees an increase in standing charges to consumers whilst shareholders benefit from failed supplier’s assets.

However, Care & Repair Cymru are concerned with aspects of how the SoLR Levy Offset will work in principle. Ofgem states *‘An administrator is not entitled to make a distribution to creditors who are neither secured nor preferential without an order of the Court and so a company is likely to go into liquidation before distributions are made to unsecured creditors. It is, therefore, likely that any distribution will be made at least a year (and usually a lot longer) after the supplier failed.’* During an energy supplier failure, to ensure continued supply, consumers will still be paying the Last Resort Supply Payment (LRSP) through network charges. These extra costs on standing charges continue to be unaffordable for many consumers, despite a fall in the energy price cap. This is evident in the level of energy debt experienced in the UK, currently at an all-time high, sitting at around £6.4 billion. Overall, we believe that households in the UK need immediate financial relief to offset the financial hardship created by the energy crisis, the effects of which are still present today. We urge Ofgem to develop a more concrete timeline for distribution to consumers and develop a mechanism by which consumers would see immediate benefit to this proposal. For example, Ofgem could allow, on a case-by-case basis, administrators to make distributions to the creditors before a company goes into liquidation, so consumers are able to benefit from these changes.

**Q3. What are your views on the proposed option of network companies being creditor, as opposed to other alternatives.**

In the current SoLR Levy Offset proposal, Ofgem states that *‘the gas and electricity distribution networks would be creditors of the failed supplier and be able to make a claim as such in the failed supplier’s insolvency process. SoLR levy claims would continue to be paid to the SoLR by the networks (and recovered from consumers through network charges). Networks would in*



*parallel claim as unsecured creditors in the insolvency process of the failed supplier by filing a proof of debt for the same amount as the approved SoLR levy claim.'* Care & Repair Cymru are concerned that this option would minimise the benefit of the SoLR Levy Offset to consumers. The current proposal means that the SoLR levy would be continued to be paid to the SoLR by networks and thus recovered through network charges paid by consumers. This would eventually be offset by networks as they make a parallel claim, meaning lower network charges. Therefore, we argue that this proposal doesn't offer significant benefit to consumers as they have already paid for the original SoLR levy claims in network charges. This means that this proposal does not result in domestic consumers being better off, they are just getting back money that has already been paid for supplier failure in the original SoLR levy claim. We understand that Ofgem is not proposing the SoLR to be the creditor, as it would result in 'multi-lateral contractual arrangements which every other supplier', which adds complexity, but we believe this would be the best course of action for consumers. This is because we believe this having the SoLR as creditor would negate the need for a parallel claim; the claim can be made together which means less of a delay for consumers. We recommend an industry code to be created so the failed energy supplier is obliged to pay the networks, SoLR appointment and SoLR levy costs as opposed to the creation of a parallel claim from networks. This avoids consumers paying for the original SoLR levy claims to then be offset further down the line when networks receive their parallel claim.

**Q4. What are your views on the creditors ranking in the insolvency waterfall as unsecured creditors and do you think another classification would be more appropriate?**

Care & Repair Cymru believes that it is in Ofgem's domain to decide on the creditor ranking in the insolvency water, we do not have views on the classification of creditors.

**Q5. What are your views on the creditor claim being contingent on a valid claim being made by a SoLR for a LRSP? Do you think that the creditor claim could be formulated or calculated in another way?**

Care & Repair Cymru is concerned about the impact on households if the network claim as a creditor, for the SoLR payment is contingent on a valid claim being made by a SoLR for a LRSP. As discussed in the previous question, we are concerned that having a creditor claim reliant on a valid LRSP will mean that consumers are not better off under this proposal; consumers will just be receiving back the money they paid for supplier failure in the LRSP, which has been charged to them through network charges. We understand that once the network, as a creditor, has recovered the funds from the supplier they are then able to reduce network charges, but we feel that this does not go far enough to address financial charges caused by energy supplier failure. It must be written into license conditions that money recouped from the SoLR Offset levy is used to apply a reduction in costs to consumers. Consumers should not pay for the failure of a network supplier. Overall, we believe that Ofgem should consider the network claim, as a creditor, on a case-by-case basis, instead of waiting for

the SoLR to make a LRSP claim. This would speed up the process and mean that consumers are not just being paid back for money that has already come out of their pocket.

**Q6. What are your views on the deed as it is currently drafted?**

Care & Repair Cymru welcomes the deed as it is currently drafted as we believe it is important for the deed to contain an ‘irrevocable unilateral undertaking from suppliers to the networks to pay the amount of any SoLR levy claim’. We welcome that the deed states that all current and future energy suppliers would be required to set up a deed as part of entry to the market, this would ensure all suppliers have to abide by the SoLR Levy Offset regulations.

**Q7. What are your views on the proposed license changes for suppliers and networks? Please identify any factors relating to the drafting of license changes that we should consider at this stage.**

Overall, Care & Repair Cymru accepts the proposed license changes for suppliers and networks in the SoLR levy Offset. We would argue that it must be written into license conditions that money recouped from the SoLR levy Offset levy is used to apply a reduction in costs to consumers. Consumers should not pay for the failure of a network supplier. It is crucial that all money networks receive from the SoLR levy Offset is put directly back into lowering network charges for consumers, money that has already been paid for by consumers.

**Q8. Have we identified the key impacts, risks and benefits of the SoLR Levy Offset, and are there any impacts we should give further consideration to? Do you think that overall this would be of benefit to consumers?**

Overall, Care & Repair Cymru welcomes that Ofgem are looking to make changes to the SoLR process and are taking proactive steps to ensure fairer prices for energy; a commitment made in Ofgem’s consumer interests’ framework. We understand the SoLR process is complex in nature, but we believe that when an energy supplier exits the market after a failure, the domestic consumer should be prioritised and they should not be expected to pay for supplier failure.

The current proposal of the SoLR Levy Offset only offers negligible benefit to consumers as the proposals are only offering to offset the costs already incurred from supplier failure, this is money that has already been spent by consumers as a direct result of supplier failure. We believe that domestic energy consumers should not have to pay these extra costs, through standing charges, in the first instance. Whilst we appreciate that these proposals would eventually restore this money spent, through the lowering of standing charges, this does not go far enough. Firstly, this is contingent on the SoLR making a successful LRSP claim and

secondly, this claim would not be possible until an energy supplier has gone into liquidation. This means that consumers would be paying the LRSP claim for a long period of time before networks receive the SoLR Levy Offset.

Care & Repair Cymru urges Ofgem to also give consideration the impact of supplier failure in the 2021 energy crisis. The proposal states that the SoLR Levy Offset can only be applied to future supplier failure. The 2021 energy crisis was a key driver of the cost-of-living crisis, and as of April 1 2024, 6 million households in the UK are experiencing fuel poverty, an increase from 4.5 million in October 2021. This number can partly be attributed to the increase of standing charges as consumers paid for the SoLR payments. This is why we recommend that Ofgem considers how it can offer benefit to consumers that were directly impacted from the cost of supplier failure in 2021.