



## MIS-SELLING OF ENERGY CONTRACTS TO INDEPENDENT SCHOOLS

Sadly, the mis-selling of energy contracts to Independent Schools is a daily occurrence and with one energy broker proclaiming “another day, another mug”, something must now be done to eradicate this shocking practise.

Powerful Allies is the only Approved Energy Partner for the Institute of School Business Leadership (ISBL), The Catholic Independent Schools Conference (CISC) and Achilles, the public sector supplier vetting protocol. With over 120 Independent School clients, plus 250 Academies, we take the subject of transparency, trust and honesty very seriously indeed. Indeed, we have made it a “mission” to expose rogue practices in the sector.

This Bulletin is intended to highlight some of the more common malpractices and to provide guidance so you can avoid becoming a victim.

## THE CAUSE

Very few Bursars are aware that the UK commercial energy market is effectively unregulated by Ofgem, unlike Microbusinesses and Domestic users who benefit from the usual consumer protection we have all treasured for so long.

Neither is there “self-regulation” or even a simple Code of Practice to protect corporate clients, the category into which Independent schools fit.

Consequently, a “Faustian Pact” can exist between suppliers eager to improve their market share and unregulated brokers, where brokers are given free rein to charge whatever they can get away with.

## THE MANIFESTATION

We see a deluge of mis-selling bordering on fraudulent action by brokers struggling to survive, and with over half of all UK brokers described by Plimsoll as financially “mediocre or in danger”, even before COVID 19, their increasingly shocking behaviour is entirely predictable.

It may come as a shock, but in our opinion, there are only a handful of energy brokers out of almost 2500 nationally which could be described as “trustworthy”. And by that, we mean they are mature, transparent, honest in presentation of data, providing clear and unambiguous contracts, supportive of clients rather than exploitative, applying sensible margins, highly retentive of clients and able to engage with clients as a valued part of their management team. Just a handful out of 2500. So how are the others abusive of client trust?

## MISLEADING, MIS-SELLING AND FRAUD

There are degrees of abuse of trust by energy brokers, categorised as

- a) Misleading
- b) Mis-selling
- c) Fraudulent

### MISLEADING

- For less than £1000, a broker can create an impressive website in which they can make absurd and unsubstantiated claims about their prowess in the sector. Clients are contracting very costly and legally binding energy supply contracts and there simply is no room for such deception at any stage in the process.
- Even a cursory glance at the accounts of energy brokers on Company Check will expose the reality for so many of them. One of the most self-laudatory brokers in the Independent School sector has no cash in the bank and a negative net worth. There are many others. And this is important because financial instability leads to malpractice, poor client support and loss of access to key suppliers.
- And is it really transparent to claim to charge fees of 50% of industry norm, without ever defining what is normal in an unregulated market?
- This pattern of exaggeration and “hype” is unacceptable in all other professional services and has long been prohibited in all financial sectors. The lack of regulation has enabled energy brokers to continue to exploit clients without constraint. At what stage does misleading become mis-selling? The line is very thin indeed.

### MIS-SELLING

On a daily basis, my team helps schools extract themselves from actual mis-sold contracts. The range of “scams”, for that is what they are, is growing rapidly and includes;

- Falsification of consumption data, to make proposed cost increases look like savings.
- Presentation of cost increases as negative savings.
- Presenting data using the lower 5% rate of VAT where it is not applicable.
- Brokers claiming to know they can save a client money (either through unsubstantiated “refunds”, reduced charges or whatever) without any knowledge of client contracts, in order to obtain a Letter of Authority.
- Presenting comparisons without detail.
- Fabricating tenders where only one supplier (their favoured supplier, with the best commission payment terms) has actually been contacted.
- Claiming to work to a fixed fee, yet still taking hidden commission.
- Adding commission to fixed standing charges, very common since clients tend to look at unit rates assuming all standing charges are the same for all suppliers.
- Enticing clients to enter into new supply contracts on the basis they can block an existing contract. This exposed clients to claims of damages from contracted suppliers.
- Providing so called “pass through “contracts where a large part of the bill is not fixed and the client is then subject to added costs accounting for up to 65% of the overall cost.

- Offering to work on a “share of savings”, yet failing to define against what benchmark savings are to be assessed. Given the complexity of energy markets and pricing, this is a highly dangerous contract for clients to sign up to.
- Presenting data in pdf form, thus preventing clients from seeing the underlying calculations and costs.

Again, it is not for us to determine when mis-selling crosses the line to become fraud, but there are some blatant examples where fraud is clearly intended, as follows;

### FRAUDLENT

- Falsification of Letters of Authority.
- Providing new contracts for clients in the full knowledge a client already has a binding contract, without alerting them to the risk of claims for damages.
- Purporting to represent a supplier.
- Claiming to be paid a fixed fee yet taking hidden commission.
- Falsification of data provided by other competitive brokers.
- Forging letters from clients to suppliers.

### HOW TO IDENTIFY MIS-SELLING?

- We have exposed some of the shocking practices in the sector, but it remains extremely difficult for a Bursar to know if a contract has been mis-sold, or even if a contract is simply a poor one.
- On the other hand, it is extremely easy for the Powerful Allies team to recognise this. This is what we do all day.
- So, if in doubt, please take part on our free Virtual “Walk in” Energy Clinic. Within 48 hours you will be given the full picture; supplier choice, broker margin, contract weaknesses if any, good news and bad new

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