Heat Networks: Building a Market Framework
Fuel Poverty Action response

1. Regulatory Framework overview

Q1. Do you agree with the inclusion of micro-businesses within consumer protection requirements?
Yes.

Q2. Do you agree that consumer protection requirements should not cover non-domestic consumers (other than micro-businesses)?
FPA are only concerned with domestic customers but it has been suggested that Ofgem should have powers of investigation around pricing for non-domestic customers in order to make sure that these customers are charged their fair share of the bill in schemes which have both types of customers. This makes sense to us.

Q3. Do you agree with our proposed approach to a definition of heat network, including that it should cover ambient temperature networks but not ground source heat pumps with a shared ground loop? Are there network arrangements you think would not be covered by this and which should, or vice versa?
All heat users should be protected by regulation. Most have no choice over what kind of heating they end up with, and even those who have made a choice should be protected from unscrupulous, profiteering or just inefficient providers or contractors.

2. Proposed regulatory approach

Q4. Do you consider Ofgem to be the appropriate body to take on the role of regulator for heat networks? If not, what would be an alternative preference?
Yes, it is an advantage that people are familiar with it and can potentially compare decisions on heat with decisions on other utilities more easily if both have the same energy regulator. However, it is essential to adapt the process to take account of the fact that in many cases heat network complaints are not individual but apply to a whole building or buildings or a housing estate. In these cases heat users should have the option of making their complaint through their tenants and residents association, or similar, or as a group of individuals. It would be perverse to require each individual to jump through the same hoops when a collective effort would be more effective.

Moreover, in relation to compensation / guaranteed service payments, the levels and qualifying periods set for gas and electricity customers are not appropriate where outages are frequent. These models have been adopted by the Heat Trust for heat networks too, but they are not suitable for heat network customers. Compensation does not apply until an outage has lasted 24 (or in some cases 12) hours. If your heat fails every other week, or there is no hot water every morning just for an hour but it's at the time when you need to take a shower and leave for work, or if you can't plan a family Christmas at home because you don't know if you will even be warm or able to wash up, then the minimum periods before compensation kicks in are entirely misplaced. In addition, the sums offered are insufficient to compensate the loss, to deter repetition, or even to cover your financial costs. And many users have to apply and jump through hoops to get compensation even when the provider knows exactly who has been affected by an outage.

The London Borough of Southwark has promised residents that, at least, "no one will be out of pocket" for having to cover extra space heating costs or use their immersion water heater (where they have one). This promise has so far not been fulfilled in practice but the council were working on it when Covid-19 struck. Covering costs is an absolute minimum that should apply nationally, and people should have the money (or loaded PPM keys) in advance, or should be so certain of payment that they can go ahead and use the heat they need without fear of running up debts. Compensation should also cover other losses, pain and suffering, and should be sufficient to ensure that providers will be better off if they act to *solve* intransigent problems than if they just let their customers continue to take the hit. People are living for years in conditions that none of their providers' executives would tolerate for one week if their own homes were affected.

3. Regulatory model options

Q5. Do you agree that the proposed regulatory model is appropriate for the regulation of heat networks?
We have no expertise on these models.

Q6. Which entity should be responsible and accountable for regulatory compliance, particularly where the heat supplier and heat network operator are not the same entity? Please explain why you think this.

The key issue from users' point of view is to have one accountable body with legal responsibility for ensuring standards and dealing with complaints. Too often people are passed around a series of contractors and subcontractors dealing with different areas (installation, operation, maintenance, metering, billing, pricing, indoors pipes, outdoors pipes, energy centre . . .) -- a recipe for buck-passing and unaccountability, with no one accepting responsibility for faults. One body should be *responsible* for ensuring that everyone has reliable heat and hot water at a reasonable price, and making everyone else do their part.

This is also relevant to pricing. Residents of a Peabody estate in Tower Hamlets (see below) have no rights or leverage in relation to their billing agent -- ISTA -- who will not deal with them. ISTA relate, instead, to the managing agent, KFH, who also will not answer to or communicate with residents, but in turn refer them to their landlord, Peabody. Peabody say it is out of their hands, "we're as frustrated as you are".

E.ON operate a District Heating scheme in a modern development in Lambeth, where they have a contract to supply hot water and heating for 25years (See our earlier submissions to BEIS on this, and the research paper on our website, Not Fit for Purpose). The heating equipment was provided by the developer and was of variable quality. The arrangements for repair and provision of service, and therefore overall accountability for service, are confused and confusing. The development is a mixed tenure one with social housing as well as shared ownership and private leaseholders, whose leases have been sold off to private landlords or Housing Associations. There is therefore a multiplicity of landlords. Lambeth remain the Superior Landlord. In such circumstances we would suggest the Superior Landlord, or whichever body commissioned the development in the first place, should remain accountable and set up appropriate mechanisms to monitor the service and agree pricing across the full range of tenures.

Q7. Do you agree that consumer protection requirements during the operation and maintenance project stage should be regulated, such as pricing, transparency and quality of service?

Yes. Users have waited too long for this, and have suffered severely over the years while unprotected.

Part of the purpose of the proposed market framework is to deal with the risk faced by investors. At present, much of the risk of heat networks is dumped on consumers, who are often the ones who pay the price when things go wrong. Yet for consumers, the risk is not just to an investment but to their and their family's health and well-being, and in extreme cases even their lives. A new framework must ensure that customers are not put at risk, either by high costs or by unreliable heat and hot water.

Q8. Should there be a de minimis threshold below which a) very small domestic schemes and/or b) non-domestic schemes with very few domestic consumers are exempted from any of the regulatory requirements proposed in this framework? Please explain why you think this.

We understand that regulation may need to be adapted for very small schemes but feel strongly that no one should remain unprotected: heat and hot water are essentials, and the consequences of bad service are simply too serious. The same applies to domestic customers in non-domestic schemes who may in fact be quite likely to be neglected or taken advantage of as they are not the priority for the provider. In addition many such providers will have wider resources that could be harnessed to ensure equity for these customers compared to other heat users: the scheme may be small but the provider may be large.

Q9. Should there be a size threshold above which larger schemes are subject to more detailed regulation and scrutiny? If so, what type of threshold would you consider most appropriate?

Yes and this should apply also to schemes which are below the threshold but are operated by a body that has other schemes, bringing them above it.

Q10. Should an optional licence be available for entities seeking rights and powers? If not, what other approaches could be considered?

Not our area of expertise

Q11. Are there any other adjustments that could be made to the proposed model to enable it to work better?

Consider the distribution of regulatory costs not just between schemes of different sizes but between parent bodies of different sizes with different resources, to ensure that these costs do not fall too heavily on those who can least afford them.

Costs could also potentially be linked to the level of complaints, or to other assessments of the network. The need for regulation has been driven by businesses who have profited for years from providing services that are inadequate or over-priced. It is not unreasonable to expect them to bear a heavier responsibility for the resulting costs.

Q12. Are there circumstances in which transitionary arrangements should be introduced? If so, in what circumstances might these apply and for what length of period?

Regulation of this industry is long overdue, and every winter people are left without functioning heat or hot water, or unable to afford to use them. Some residents have to use showers at leisure centres. Some are forced to move out and stay with relatives, because they cannot afford to heat their homes. Some have turned everything off and use electric heaters -- sadly continuing to pay for their DH. We know of at least one death. This cannot wait any longer.

The current health emergency only makes it more urgent. People are less able to absorb unreasonable costs, more likely to be home running up high bills, and need to protect their health and resilience. Rather than transitional arrangements, protection should be fast-tracked. Pat Edmonds, from Wydham and Combre Tenants and Residents Association in Southwark had this question for the council in March 2020:

"One question I get asked almost daily from tenants/residents of Wyndham & Comber Estate especially those on district heating is, "is enough work being done to safeguard the district heating?" It failed last weekend. Everyone was freezing. Lots of people have young children who they now cannot take out to their grandparents for warmth and most of whom cannot afford the cost of putting on electric fires. Many seniors are having to augment their electricity bills by paying extra money.

4. Emerging business models

Q13. Do you consider our proposed approach sufficiently flexible to accommodate emerging business models, including unbundling of different components of a heat network? If not, please suggest ways in which we could ensure alternative business models are not precluded.

Existing business models allow networks to be designed, installed and run for the benefit of numerous contractors, financers, housing developers, shareholders and executives at the expense of end users. Large parts of this industry are based on quick returns on capital borrowed at expensive rates, with multiple levels of sub-contracting, divided responsibilities, and incentives rather than disincentives for poor design and high prices. While current models of planning and financing remain unchanged, arbitrators are likely to find even really high prices and poor service "reasonable" -- the best that can be done under these circumstances.

A new, regulated framework should facilitate separation of parts (eg a Pipeco) to ease access to less expensive finance, but should also include other measures that could provide relief from the existing business models.

Any framework and regulations should facilitate, not impede, community owned and/or community led heat networks.

There should be independent oversight to ensure that schemes which will end up costing residents dear are not built in the first place, whether by private or public bodies. Non-profit schemes should have free access to technical advice and supervision.

Risks should accrue to the private sector (that is its rationale for profit), and should not be absorbed by the public, including customers.

A common complaint is that developers choose contractors not on the basis of best value for residents, but for their own reasons. Residents of New Festival Quarter, a Bellway development in Poplar, ask, *"While Bellway were freeholder they appointed their preferred DH maintenance company 'Watkins'. The contract appears to be 225% higher than works carried out outside of Bellway being freeholder. Were Watkins paying Bellway a kickback (from leaseholder money) to Bellway for this contract?"* Even if this is not the case, the fact remains that there is no transparency or control to prevent it.

Local authorities are now being forced to maintain or replace existing heat networks in the context of a devastating assault on their overall finances, where many cannot even fulfill their statutory responsibilities.

This will be made ten times worse by the Covid-19 crisis. The heart-breaking results can be seen, for instance, in the London Borough of Southwark, a borough very heavily committed to district heating on their widespread council estates since the 20th century. Ageing plant and pipes are leading to outages, often longlasting, on an unbelievable scale. The council has been playing whack a mole for decades. The borough-wide Southwark Group of Tenants Organisations (see their Dossier at https://drive.google.com/drive/folders/1wZ2ND1YzyJ0G06YFKrasiM0GPuMiTvK0) has pressed hard on behalf of residents made desperate or ill by constant lack of heat and hot water, only to be met by a stream of sympathy and good intentions, short-lived repairs, and palliative measures like space heaters that residents cannot afford to use. **Without much more substantial outside help, regulations mandating functioning heat networks are unlikely to do any good at all.**

Business models based on an assumption that network operators can, when they want to, force leaseholders to provide huge capital sums for repair, replacement or extension of heat networks should be proscribed by regulation. We see nothing about this in the consultation document, but on the ground we find it is one of the most hated aspects of DH. It would of course help if people were TOLD when considering buying a lease that they may be subject to additional levies of tens of thousands of pounds. But such a system -- as far as we know, unique to the UK -- should not be allowed to exist in the first place. The sums involved are too big and leaseholders, already under pressure from soaring ground rents and other often exploitative practices, cannot afford them. Even the distinction between repair and improvement or extension is not well maintained in practice. See, for instance,the Baharier case in Southwark (reported in the Guardian 8 Feb 2020) where a Gilesmead estate resident representing herself won a first tier tribunal case against paying for an entirely new heating system - only to lose at appeal. In Islington, on Christmas eve 2015 residents of Redbrick estate were presented with a demand for £22,000 to be paid within five years; the "necessary repair" to their heat network coincided with and was linked to a substantial extension of it. Many residents simply did not have that kind of money, and it was at best a very poor value and long-term investment, the fruits of which older residents would not live to see.

In addition, leaseholders have no control over the work being commissioned and can be forced to pay huge sums for work that is ineffective or not their responsibility. See the tribunal case brought by another Southwark leaseholder, Murat Kaya, after he and his neighbours were forced to pay nearly £4,000 each for a new boiler when the pipes were so full of sludge that it has hardly ever worked. (Case reference LON/00BE/LSC/2018/0407). They were then charged for constant call-outs which failed to fix the problem, including some which should have been covered by contractor's warranty. The First Tier Tribunal was scathing in their findings, but since most people do not have the resources, time, knowledge (or in this case a pro bono lawyer) to bring such cases, scandals like this will continue unless regulation stops them.

Similarly, leaseholders in New Festival Quarter have been paying exorbitant costs for repairs and preventative maintenance (£140,000 in four years on a brand new system) for work which has not solved the problems and which in any case was, or should have been, covered by warranties. In addition, they have been told that some warranties no longer apply because they date from when the DH scheme started running elsewhere on the estate, two years before their own buildings were finished.

Regulations need to be coordinated with major reform (or abolition) of the UK's leasehold system, which bears a huge responsibility here. But "make the leaseholder pay, regardless" is an underlying part of the DH business model in many estates and developments. Justice and transparency are urgent.

5. Enforcement powers

Q14. How should government and the regulator ensure that enforcement action is proportionate and targeted? Are there particular considerations for not for profit schemes?

Enforcement is the critical question. The one customer-facing area of the industry that has been regulated is metering and billing -- yet that is one of the areas where we have heard most complaints. That is, existing regulations are being ignored. In Lambeth E.ON seemed unable (for years) to distinguish one customer from another. In Hillingdon's Pembroke Park estate there were inexplicable charges on people's bills, ultimately dropped after a struggle and possibly intervention by BEIS, and residents were also (illegally) charged for heat used during the construction of their houses, before they moved in.

Not for profit schemes should be offered advice and support, and particularly in the case of local authorities steps should be taken to provide the resources that will enable them to put things right: fining an authority for being out of money accomplishes nothing. But once any needed support is in place -- which it must be -- they must be accountable just like the rest. Housing Associations on the other hand may be "not for profit" but many now function and relate to residents in much the same way as for-profit developers and should be held to account accordingly.

Q15. Do you agree that imposing fines and removing a licence/authorisation are an appropriate and adequate set of enforcement actions for the regulator of the heat network market?

Clearly, sanctions that just result in fines that are passed on to customers, do not work. In our view rescue for customers ultimately rests on the proposal that as a last resort the heat provider should be replaced or controlled by a step-in body, on terms that are totally disadvantageous to the offending party.

In a step towards licensing or authorisation, the Heat Trust has as its ultimate sanction an audit of the scheme, potentially resulting in expulsion from the Trust. We hoped for some relief when the dysfunctional E.ON scheme at Myatts Field North in Lambeth was accepted as the subject of the Heat Trust's first audit, after years of complaints by residents (see "Not Fit For Purpose"). But after FPA, MFN-RAMB (Myatts Field North Residents Association and PFI Monitoring Board) and Oval Quarter Residents Association presented absolutely damning evidence to the auditors, nothing happened: we could not even see the report. Clearly the implications of an audit would be different if membership of the Trust were a condition for continuing to trade, so where there is a realistic back up plan in the form of someone else ready to step in, removal of authorisation could be effective.

See also above, Q 14, re fines on local authorities.

Q16. Do you agree that the regulator should have powers to impose penalties at the entity level which are proportionate to its size, in a scenario where there are repeated or systemic failures across multiple schemes owned or operated by the same entity?

We agree with this approach in the for-profit sector, and for large Housing Associations, but it is hard to see how fines would improve matters where local authorities are struggling to find the finance to keep their heat networks afloat (see Southwark, below). Even in the private sector a finding against a provider should trigger a wholesale review of their performance and an attempt to uncover the cause and possible solutions.

The consultation also states that the regulator will be expected to use pricing transparency to monitor any subsequent price hikes that could suggest that fines are unreasonably being passed through to the consumer. This provision should also be used to ensure that the cost of regulation is not passed through to the consumer unfairly.

Q17. Do you agree that the regulator should have powers to revoke an authorisation for single networks owned or operated within a group scenario, so that the entity would still be authorised or licensed to operate those networks within the group that remain in compliance? If not, what alternative approach might the regulator take?

If one authorisation is revoked, this should trigger closer scrutiny of the other networks to make sure the problems are not systemic. It should also put a stop to this entity starting any more networks until the existing problems are properly resolved. It was 2016 when we first suggested to BEIS that heat providers should be subject to a DBS type check -- there are vulnerable people at risk here, after all. Why should entities be permitted to take on the operation of new schemes while residents are still suffering in their existing scheme or schemes? Electricity or gas space retailers with catastrophic customer service frequently go out of business; heat networks, as monopolies, can just carry on.

It would be a major sanction for ESCos and billing service or maintenance service providers if their businesses cannot grow until they get a handle on their legacy. It would also be a major incentive to do what has been needed for years, and deal with the issues in problem networks.

Q18. If compliance issues are more widespread within the group of networks owned or operated by the same entity, do you agree that the regulator should be able to revoke the authorisation or licence for the entity as a whole covering its entire group of networks? If not, what alternative approach might the regulator take?
Yes, definitely.

Q19. Do you agree that individual domestic consumers should have access to ombudsman services for redress? Do you have any views as to which ombudsman is best placed to provide this function for heat networks?
Yes, heat users should certainly have access to an Ombudsman. Please note that this should not only be for "individual" heat customers. As we said in response to Q 4 (there, in relation to Ofgem), it is essential to adapt the process to take account of the fact that in many cases heat network complaints are not individual but apply to a whole building or buildings or a housing estate. In these cases heat users should have the option of making their complaint through their tenants and residents association, or similar, or as a group of individuals. It would be perverse to require each individual to jump through the same hoops when a collective effort would be more effective.
We believe the Energy Ombudsman would be more appropriate than the Housing Ombudsman as they will be better informed on technical and other issues related to District Heating.

6. Step-in Arrangements

Q20. Do you agree that step-in arrangements are necessary both to cover the risk of stranded consumers and as a deterrent against sustained failure to meet the regulatory requirements? If not, why?
Yes, they are essential. We were glad to see your suggestion that step-in arrangements should apply not only in cases of insolvency but "Where there has been significant and persistently poor performance by the regulated party, causing substantial harm to the end consumer, such as through repeated excessive pricing" and that this should include schemes with historical technical deficiencies that the current operator can't solve.

Q21. Do you have any examples of approaches we should be considering as we develop the step-in arrangements?
Whoever steps in to manage a failing scheme should be both competent and non-profit: it is not surprising that non-profit schemes are generally much more affordable than those with an outside destination for their resources. It would not be helpful for profit-making bodies to step in to take over failing non-profit schemes; instead, the root problem should be addressed. This raises the question of municipal suppliers of last resort, or possibly a national one, that would be prepared to step in where necessary. Potentially, over time, this could transform the landscape of DH in the UK to something closer to that which is normal in Europe.

However, this creates a real risk of property owners dumping toxic assets on the taxpayer. Without stringent conditions, the possibility of step-ins may not be "a deterrent against sustained failure to meet the regulatory requirements", but the opposite. The prospect of a state bail-out on attractive terms could even serve to drive down standards. We have not heard any persuasive proposals to deal with this problem but propose the following principles:

Freeholders and ESCos should be expected to cover the costs of their own disasters.

Where a public landlord (like Southwark Council) would be forced to cut back on essential public services to finance the work heat networks need, a bail-out would be appropriate, the original problem having arisen due to decades of central government underfunding councils.

As detailed in Q 13 leaseholders are in a peculiarly bad position, due to the fact that the law in this country is heavily weighted against them. They must be protected from freeholders and network operators who seek to impose on them standards, prices, and levies that would defy district heating regulations. (In the same way they should not be expected to pay for replacement of cladding installed in defiance of building regulations; many have been bankrupted or pushed to suicide by such demands). The ultimate sanction could be a step-in and dispossession of freeholders -- surely enough, in most cases, to force the freeholder to sort out the problem (if necessary by accessing a loan).

Except in cases of bankruptcy, a better alternative to take-overs could be public loans to bring networks up to regulated standards: loans to be paid back, with interest. This temporary use of public money would require stringent supervision and conditions. Low interest long term loans could be appropriate for Housing

Associations who lack the cash to make their heating good. Independent scrutiny, with power to intervene, could ensure that the loan effectively improves the heat network, and that costs are proportional to what is achieved.

The prospect of government step-ins -- whether take-overs or loans plus supervision -- would incentivise close state oversight of DH schemes development and operation, to avoid the risk of being landed with responsibility for networks with inbuilt crises.

Where a heat network is not really the best option, it should be replaced, if this is viable, by another form of heating.

7. Protecting consumers

a) Transparency

Q22. Do you agree that the provision of minimum information would help consumers in making decisions at pre-contractual stages of property transactions?

Yes, including the fact that this is a monopoly and they will not be able to switch, pricing information (see below), information about outages (unless this is a brand new scheme), and contractually reliable information about any possible levies, which may be decisive in determining whether the property is affordable or not.

The same information (minus the levies) should be available to renters. A home is not affordable if you can't afford to heat it. In social housing, where people generally have limited choice about where they can live, information on heating costs could still be relevant, for instance to whether someone will accept an offer or carry on bidding. Hopefully in most cases the presence of a heat network should be a positive that tenants are glad to embrace.

Q23. Do you agree that heat suppliers should be responsible for developing information and guidance for prospective consumers? If yes, what minimum information should be included?

Yes, suppliers should be responsible, and information should include the age and type and reliability record of the heat network system, the contractual arrangements in place including compensation, a summary of the terms of service and price information (including estimates of annual costs/what prices are tied to if anything -- see Q 30 below).

Q24. How can we ensure new consumers receive or have access to information about the heat network before moving into the property?

Duties should be placed on those involved in putting the contractual arrangements in place to make sure end customers are aware of the information, as is the case for example with EPCs.

This requires very careful thought and monitoring - testing - of different solutions, as there is so much going on for people who are buying a property that they are likely to miss or ignore this information even if it is offered. Legal requirements on estate agents and/or vendors should be backed up with sanctions, and they should be able to demonstrate a prospective buyer's signature against this information at an early stage of the sale process -- before the buyer is financially or emotionally committed. More detailed information should then be made available and signed for at a later stage. We have heard many times from residents who knew nothing about their heating until they moved in.

It is similar for renters. In September 2019 a group of council tenants were transferred to new Peabody homes on the Phoenix Works estate in Tower Hamlets. In their tenancy agreement Schedule 3 - "*the special conditions of your tenancy which you agree to [Include here details of any Heating/hot water charges and how they may vary]*" was left blank, with no mention of heating charges. Yet when they later complained about the extremely high price of their heat (see Q 27 below) they were repeatedly referred to the "contract" that they had allegedly signed.

All relevant information, with links to further material about heat networks and how they function, should be available online, but it must also be given to prospective buyers and tenants on paper.

Q25. Do you agree that the market framework should regulate and enforce the provision of information during residency?

Essential information includes what to do in case of outages or, for instance, water that is insufficiently hot; who to contact with queries or complaints about bills, compensation entitlement and procedures; up to date news of planned and unplanned maintenance; and anticipated major works (and for leaseholders the cost of these). Explanations of how tariffs and other charges are worked out, and what is covered by them, must be clear and complete; no doubt models will be worked out in the course of making price comparisons possible between different schemes. This will also enable people to see if, for instance, their tariff includes a putative sum for repairs or capital costs or insurance for which they should not be liable if they are a tenant.

London Borough of Southwark have a website, readily accessible to tenants, with information about current planned and unplanned outages. But it is still hard for residents to find out if a contractor was called, when work was done, and whether it has been signed off as satisfactory. The website is also wiped regularly so it does not give a clear picture of the extent of problems.

New Festival Quarter residents appear to have no right to information about the work they pay huge sums for. They say,
"On installation, in accordance with council regulations, Bellway (developers) sold leaseholders a CHP with 60% of energy saving power to come through this. To our knowledge the CHP has not been active since 2013/14. We pay a 'preventative maintenance' monthly fee and yearly maintenance fee. The preventative maintenance has ranged between £2,900 - £1,303. During these contracts while the CHP has been off, three of the four back up boilers have also been down for long periods. We have been refused information that will clarify when these boilers broke.
We also pay an energy provider for the use of power for hot water and heating – we do not know what these rates are, or what accounts for what seems a high cost for meter reading, billing and money collection.

ADDED AFTER ORIGINAL ONLINE SUBMISSION:
Where heat network users are going to be responsible for maintenance, some highly technical information is also required, and in a form that can be understood by lay people.

In a classic case of having financial responsibility imposed without necessary information or control, New Festival Quarter leaseholders received on 1 June 2020 an email from the manufacturer of the hot water cylinder that stores water from the heat network. It stated "*The hardness of your water is outside the range covered under our warranty (see attached highlighted section) therefore unfortunately your units warranty is void*." The installer had ticked "no" instead of "yes" in the "mains pressure hot water storage system commissioning checklist', invalidating the warranty. No scale reducer was fitted. New Festival Quarter Residents Association vice-chair Philippe Wilson notes "*It looks like the 25 year warranty is void. Not great, as we are finding out this costs about £1,500 - £1,800 to replace including labour. Plus, it seems I have been wasting my money to pay for annual servicing if this hasn't even kept it in warranty, as the warranty guidelines recommend*."

In relation to the HIU's performance Mr Wilson adds: "*It seems that servicing the HIU is a requirement but we didn't receive any information from the developers or management company on completion, or after, that this needed to be done. Or even how we'd go about getting it done.*"

b) Pricing

Q26. Do you agree that the regulator should have powers to mandate and enforce price transparency? Can you foresee any unintended consequences of this?
Fuel Poverty Action and the many Tenants and Residents Associations we work with have been calling since 2016 for a standardised system of recording and comparing fixed charges, unit rates and tariffs, including some examples of total costs. Understanding the pricing will help some people to see that their costs are actually comparatively low, and will help others to put effective pressure on their suppliers for a reduction.

Q27. What are the current barriers to publishing and maintaining accurate information on fixed charges, unit rates and tariffs? What are the main reasons for information on pricing not being available at present?
At first we were told it was too complicated. Then that it could certainly be done. Residents believe it has not been done because it would expose the schemes which are over-charging -- to improve profits, to make up for inefficiencies or bad choices, or to cover costs incurred against the residents' interests but on their behalf, for instance paying a developer to choose that scheme. An up to date comparison chart would be invaluable for heat users seeking to hold their provider to account. It should be publicly available on the web, and a link to it

should be provided with customers' bills. We know of two cases where the tariffs initially charged have been halved by residents' pressure, making plain that they were exploitative in the first place. In August 2018 Trafford Housing Trust reduced the tariff for Stretford House tenants by 51%; in February 2020 the Peabody residents at Phoenix Works got their tariffs reduced from 13.7p/kWh to 7.4555/kWh.

In leasehold properties, the many different ways of apportioning and collecting service charges create another barrier to transparency.

Q28. Do you agree that there should be clear, consistent rules on what costs should be recovered through fixed and variable charges?

Yes, and this must include reference to the Landlord and Tenant Act 1985, as signalled in the consultation document.

Presently, many tenants are being charged for infrastructure and maintenance that tenants would never expect to have to cover -- with other kinds of heating these are the responsibility of the landlord, and in our view the same should apply here. These charges may be implicit, visible only when prices are challenged, and the reply is based on a comparator that includes such maintenance/ insurance costs for gas boilers. Or they may be explicit, as in the letter from ISTA received by some tenants on St Clements estate in Mile End: *"Please note that the revised rates incorporate all servicing and maintenance of the communal equipment and infrastructure, and also include servicing for each individual HIU unit within the properties on the estate."*

Q29. Do you agree that the regulator should have powers to undertake investigations on pricing and to enforce directions and remedy actions, where there is sufficient evidence that these could lower prices for consumers?

Yes, absolutely. We were particularly glad to see this passage:
"*Price investigations would be conducted with a view to identify an appropriate set of actions to lower consumers' cost. If this was not possible, the regulator could consider the suitability of switching to alternative low carbon heating solutions… Failure to comply with mandated improvement measures could lead to penalties on the regulated party. Additionally, where there is evidence of persistent disproportionate pricing occurring, we expect the regulator to be able to impose scheme specific pricing restrictions."*

Q30. Do you agree that price regulation in the form of a price cap or regulation of profits should not be implemented at this point in time? Please explain your answer.

We are not equipped to reach a firm conclusion on this, in view of the practical difficulties described, but think more work should be done to see how a price cap might work, based either on comparison with other forms of heating, or on the price of gas. This would not only protect people at the time, but would offer some security to people buying or entering into a rental property that their heating costs would not rocket, or at least not more than those of people with other forms of heating.

We do not believe a cap should be based on the provider's "justifiable costs" as too many costs may be seen as "justifiable" eg in a badly designed scheme.

Where a more expensive low carbon heat source is chosen, this should be subsidised in some way *other* than by the end user.

Most importantly, we do not accept the argument below:
"Price-cap regulation could compel suppliers to find ways to reduce their costs in order to improve their profit margins, while ensuring consumers are adequately protected. However, these measures could also deter investors from entering the market. This could be damaging for heat networks at this point in time, as the sector is still in its nascent stage, and investment risks are perceived as high."

People's health and warmth should not be sacrificed to protect a nascent industry -- that has already happened far too long. Instead, we strongly agree with your suggestion, "*We think there is merit in developers considering whole life costs during the design and build phases of new networks, and assuming reasonable consumer prices when assessing the financial viability of schemes."*

Especially now, decisions about how homes should be heated must be based on what, in each locality, is most efficient in terms of cost, reliability, pollution, and carbon emissions, not based on what is profitable. If that means more public investment in heat networks, rather than private investment, so be it -- money could go here instead of into massive bailouts for airlines and oil. On the other hand, if it means that other forms of heating are preferable to heat networks, then there is nothing wrong with a lack of investment in this field.

In other words, we do not accept the purpose and premise of the consultation, which sets out "measures to increase levels of investment in the sector . . .". There are certainly good arguments for heat networks in some situations, and these will be all the stronger as gas boilers are phased out, and as cooling is more and more needed. But with improvements in home energy efficiency, the potential benefits of heat networks and especially district heating are becoming insufficient in many places to justify the high costs of the infrastructure, and other low carbon heat solutions are coming to the fore. This process should not be artificially distorted, certainly not by allowing residents to pay excessive prices for the right to keep warm.

Q31. What might cause price regulation to become an appropriate intervention in future? What evidence would be required to demonstrate this?

If a decision is taken not to regulate prices now, the crucial criterion in the future must be the welfare of heat users, not overall, but in the problematic networks for which regulation is most required. People's complaints must be listened to. Research like the many studies carried out over recent years would also help to reveal how many users are still in crisis with their heating costs and what remedies have been tried.

c) Quality of Service Standards

Q32. Do you agree that consumers on heat networks should have comparable levels of service and protection as consumers in other regulated utilities? How do we ensure the associated compliance costs of such protections remain proportionate?

Yes, heat users absolutely need the same levels of protection -- and crucially, service -- as consumers of gas and electricity. But the small pool of customers from which costs are now covered is a major issue (connected not only to the relatively low total number of connections, but to the fragmented, competitive market in the UK). It should not be up to customers to pay for this.

The costs of regulating -- and operating, and in many cases improving -- existing schemes could be shared over a wide base, perhaps through a levy on the oil and gas industry to share the costs of the transition, or as part of the needed general reorientation of the economy away from waste and carbon profligacy. As users frequently point out, they care about the climate as much as anyone, but they did not choose to be standard bearers for green energy, nor to be guinea pigs for new technology; they should pay their share but not more than anyone else.

Q33. Do you agree that minimum standards should be outcome-based to allow the regulator scope to implement these flexibly and proportionately depending on the size and nature of different schemes? Are there other ways these outcomes could be achieved?

This is not our area of expertise, but we hope that, if outcome-based, standards are not so vague that they cannot effectively be measured, or that customers in small networks are forced to accept lower standards as "proportionate". **A key measure to prevent this would be a well-designed and publicised outlet for people to post complaints online**, for all to see, where they can also get responses from their heat provider and where necessary from the regulator. This would not be an alternative to other channels for complaint, response, or protection, but would help people see what standards are, for their own scheme and others, and could be very useful to the regulator and others working to maintain standards in the sector as a whole.

New Festival Quarter leaseholders propose, *". . . an annual check on heating systems provided by the government. To ensure all 'preventative maintenance' standards are met and these contractors and estate management companies are not pocketing large sums of money and not providing the work. Had this been in place leaseholders at New Festival Quarter would have been provided proof that these works actually occurred and been provided dates in which the boilers broke and what contract this failure was under. Leaseholders have been left to pay for substantial yearly bills on a DH that was less than 5 years old and not given any information*

on when faults occurred. Leaseholders at NFQ believe that there will be a huge bill coming to replace these poor performing boilers."

8. Technical Standards

Q34. Do you agree that all new schemes should be subject to minimum technical standards (once developed), given the potential impact on system performance and end consumers?

Absolutely.

We are very disappointed that despite raising this issue in the consultation document you do not ask about technical standards for *existing* schemes, but conclude without consultation that *"we do not consider it practicable to impose retrospective minimum build requirements on those networks already operating."* Constant and/or prolonged outages are wrecking many people's quality of life, and what some people live with is an absolute scandal. From all over London (so far Havering, Hillingdon, Lambeth, Southwark, Tower Hamlets, Brentford) we have had reports of systems that break down day after day, year after year, with nothing effective being done about it; we also know of similar stories elsewhere, from Cardiff to Glasgow. Research by Citizens Advice, Which, the Joseph Rowntree Foundation, and others has reported the same thing. People give up on their heat network and pay for space heaters as well, they go to bed early and get up late, they carry large saucepans of hot water upstairs to bathe, go for showers in leisure centres month after month, stay home from work, college or appointments because they cannot wash and are ashamed, give up and try to sell properties, cannot study. Many become tense or depressed, partly through trying to fight the system and hitting a brick wall. How long are they expected to wait before they get the standard of service that they deserve -- and are paying for?

You say, *"However, we do see merit in considering whether there is benefit to phasing in minimum technical operating standards where these could be reasonably expected to improve end users' outcomes. The Code of Practice, for example, is designed to include elements which may be used to drive improvements post the design and build phase. We have commissioned work to support poorer performing networks that might otherwise struggle to achieve such improvements."* This all sounds quite conditional and long term, when people have already waited for years for minimum standards. The work to support poorer performing networks should be widely available and publicised, and the improvements should not be conditional on acceptance by the provider responsible.

Many heat networks' reliability and pricing can be transformed, at relatively low cost, by smart-tech assisted analysis of the problems and intervention. This is very well documented. But in some cases, heat providers, even when they are the landlord, may not accept help offered. In 2017 we asked the GLA's RE:NEW team to access advice and support for a horrifically unreliable network in the A2D Pembroke Park estate in Hillingdon. RE:NEW offered help but A2D refused, saying thanks but they had the situation in hand. Instead, the problems continued. In seven months, between 2018 and '19, one block on the estate logged 15 outages.

It should be noted that at present, people are forced to stay home a lot more, and we do not know how long this will continue or whether and when it may come back. People who "normally" are out at work, or can do their studying or homework in a library, are stuck at home now. Heat and hot water are needed more than ever. They are also important for health.

Q35. How could we ensure the impact of minimum technical standards on new small communal networks is proportionate?

Please see our response to Q 32 above

Q36. Do you agree that regulated entities should demonstrate they are compliant through an accredited certification scheme?

We do not know enough to comment on details of certification, or what the costs and pitfalls of such schemes may be. Dictating a required outcome may be a better solution. However, see Q17 above: an entity's record should be taken into account. No body should be able to start a new scheme while residents in their existing scheme or schemes are suffering high levels of outages or high prices. That is, they should deal with the problems in existing schemes (applying for help if necessary and appropriate) before going on to build more. We believe this would help to resolve the intractable problems at a number of schemes where residents have been unable to get a result.

Q37. What do you consider to be the most appropriate approach to setting the technical standards?

Not our area of expertise but we hope that at some stage it will include consultation with users.

Q38. Are there examples of the roll out of technical standards or the introduction of compliance schemes which you consider particularly relevant from other markets or technologies?
Not our area of expertise.

9. Rights and powers

Q39. Do you agree that a (licensed) heat network entity should be classified as a statutory undertaker?
Not our area of expertise.

Q40. Do you agree that the proposed rights and powers should be given to heat network entities which meet the terms of our proposed licensing system?
Not our area of expertise.

Q41. Is it reasonable to assume that the proposed rights and powers would only be relevant to district heat networks (not communal networks)? If not, please explain why.
Not our area of expertise.

Q42. What impacts will the proposed rights and powers have on the development and extensions of heat networks? And what impacts do you think these rights will have on the operator's ability to maintain and repair heat networks?
Not our area of expertise.

a) Access rights

Q43. Do you agree that licensed heat network entities should be granted statutory access rights?
Not our area of expertise.

Q44. Do you agree that the process should be similar to that for electricity and gas companies, in that the licensed heat network entity will have to make an application to the responsible minister for the easement and that any compensation arrangements will be determined by the Tribunal Service?
Not our area of expertise.

Q45. Do you agree that these access rights would primarily be used to install and maintain pipework, or do you anticipate that they would be used for other purposes?
It is a source of great frustration especially for people living on a developing site, eg in the many London regeneration areas, that roads are dug up so many times instead of work being coordinated between contractors.

b) Street works

Q46. Would you consider the ability to apply for a street work permit a considerable benefit compared to a Section 50 Street Works licence? If so, in what way?
Not our area of expertise.

Q47. Do you have any experience of applying for a Section 50 Street Works licence? Did you find this delayed either construction or repair and maintenance work required?
Not our area of expertise.

c) Rights to lay pipes under the roadway

Q48. Do you agree that heat networks should be given equivalent powers to other utilities to install and keep heat network pipes underneath roadways? Are you aware of any potential unintended consequences?
Not our area of expertise

d) Permitted development

Q49. Do you agree that licensed heat network developers should be granted permitted development powers similar to other statutory undertakers? Are you aware of any potential unintended consequences?
Not our area of expertise.

Q50. In addition to permitted development rights specified (install or replace pipes or electricity cabling; erect small temporary structures and small ancillary buildings, machinery or apparatus), are there any other activities to which a permitted development right should apply?
Not our area of expertise.

e) Consultation rights

Q51. Do you agree that the administrative burdens of being statutory consultees would be disproportionate for heat networks?
Not our area of expertise.

Q52. Beyond improving the guidance on non-statutory consultees, do you think that there are any other areas of government guidance that could be improved to ensure that heat networks are more routinely consulted on relevant development in their areas?
Not our area of expertise.

f) Linear obstacle rights

Q53. Do you believe that licensed heat network developers should be given equivalent rights to cross linear obstacles? Can you provide examples of where such rights would be beneficial to heat network development?
Not our area of expertise.

10. Decarbonisation of heat networks

Q54. Do you agree that consumers should have access to information on the energy performance and percentage of low-carbon generation of their network?
Yes, people are keen to know this, and not only because reducing carbon emissions is a primary reason for heat networks being chosen in the first place.

For residents, a common worry is waste heat -- particularly when that waste heat is overheating their homes and, for instance, making bedrooms uninhabitable in the summer because they are too near pipes. People are also concerned about lack of control of their systems that forces them to open their windows wide in the winter. Energy performance of the network and energy performance of the home as a whole cannot practically be separated, and by this we do not mean generic EPCs but real data in relation to specific properties. Many of these problems can be dealt with relatively cheaply eg by TRVs, better placed thermostats, better balanced systems, digital or analogue controls that residents of all ages can handle, or in some cases by dealing with thermal bridging etc. For the climate, and for residents' comfort and health, this is a crucial issue. It doesn't necessarily require monitoring everywhere -- but easy and publicised mechanisms should be put in place for action to be taken where users complain. People would also feel better about their heating systems if they didn't think their heat was being wasted.

More fundamentally, it must be possible for both residents, planners, and a wider public to compare the carbon performance of heat networks with other forms of heating both in poorly insulated homes and in new-build well-insulated properties.

Q55. Do you agree that regulation is necessary to encourage decarbonisation of heat networks over the period to 2050? Are there alternative means by which government could act to support the decarbonisation of heat networks?
Yes, decarbonisation is the most urgent and undroppable task facing every area of the economy. A total overhaul of priorities is necessary, as described above, but in the meantime regulation is essential. Crucially, regulation must prevent developers and providers from gaming the system, promising low carbon heat to get a scheme through the planning process, or to win BEIS support, and then not fulfilling the promises in practice. There are biofuel boilers that have never worked, and clearly were never intended to, installed only to be replaced by gas after a long fight by residents needing real heat and hot water. There are solar panels, promised as part of a scheme, that never appeared. In New Festival Quarter, Tower Hamlets, the "primary" heat source and "designated lead boiler" was supposed to be a CHP boiler(still carbon-based, but at least dual

purpose) -- but this has never worked, nor has it been serviced. If regulation cannot prevent such scams, the calculations on which schemes are based are rendered invalid, and brought into disrepute.

The costs of decarbonisation should always be compared with the cost of doing nothing. These costs fall not only on an abstract "society" or "economy" but on each of us individually who has to cover the increasing cost of food, flood and storm damage, insurance, diseases new to our regions or to our species, and potentially much more. Investment in genuinely low-carbon heat networks, where heat sources and the nature of the buildings make this the best solution, is one key way forward.

On the other hand, permitting expansion of fossil fuel based heat networks can lock in future carbon emissions. Plans costed for CHP which is still carbon-based are not necessarily viable financially if converted to other heat sources. Vague and uncosted plans for later transition to other heat sources do not make a real case for heat networks compared to, for instance, a focus on heat pumps, batteries, solar energy, and energy efficiency. Many residents are furious that something imposed on them on the grounds of being low carbon ends up not even fulfilling that purpose.

Equally urgent is strengthening of air quality requirements.

Re alternative means to decarbonise heat networks: community initiatives using renewable heat sources for heat networks should be actively supported where they meet other criteria. Community involvement, benefit, and oversight will help to ensure both high standards and acceptance. .

11. Waste-heat sources

Q56. How could the Environmental Permitting Regulations be amended to ensure that waste-heat sources connect to networks when it is cost-effective and feasible to do so? What do you consider are the main barriers for waste heat sources to be connected to heat networks?

Not our area of expertise, but residents' concerns about air quality from incinerators need to be thoroughly answered.

Q57. Which sources of industrial and commercial heat could government bring within the scope of the Environmental Permitting Regulations in addition to the sources already being identified?

Not our area of expertise, but please note that exciting as the prospect is, waste heat may not be enough to meet the need, which can result in users having to in effect cover the cost of two systems. To our (limited) knowledge this has happened in Islington's Redbrick estate sourcing heat from London underground, and is likely to happen again in a new scheme in Southwark.

Leaseholders in particular can pay a high price for this, in breach of the principle we suggest in Q 32 above: the costs of infrastructure to decarbonise the UK's infrastructure, and heating and housing in particular, should not fall disproportionately on a small pool of heat network users.