



*A grassroots campaign taking action against mammoth fuel bills and working towards an affordable, sustainable and democratic energy system*

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## FPA Response: Heat networks regulation – consumer protection

Fuel Poverty Action is pleased to submit this response to the above [consultation](#), following our years of work helping residents on heat networks bring their experience to BEIS. We have this year been focusing on our campaign for [Energy For All](#). Some of the principles of that campaign can now be brought to bear on Heat Networks.

In this response Fuel Poverty Action (FPA), expresses concerns about some people being potentially excluded from protection because of factors like shared facilities, or the size of their heat network. Our principle is that all are entitled to the same protection from unaffordable prices and unreliable heat -- and that this should be *at least* at the same as for people with other forms of heating.

More than that - if heat networks are to fulfil their potential they will go further and improve on what people using other forms of energy experience. We were glad to see you point out that “consumers on heat networks tend to have slightly more additional needs than consumers in gas and electricity” - up to 31% - mostly stemming from long term illness, caring responsibilities, and hearing or sight disabilities. We appreciate the implication that this should be taken into account in determining protections. In line with this, we **reject the imposition of Prepayment Meters**: this should be banned. Among other things, in this response we also:

- address the effects of divided responsibilities, and question the complexity of such divisions between heat suppliers and network operators
- call for more immediate regulation implementation due to the long wait and suffering of residents
- discuss the meaning of transparency, particularly regarding billing, metering costs, standing charges and service charges, fuel procurement, CHP income, network efficiency, and cost-sharing responsibilities
- emphasise affordability as a crucial benchmark for pricing
- We put forward principles for compensation when networks fail to deliver.
- supports the introduction of an overarching Standards of Conduct principle and recommend segmenting the market for price benchmarking based on various characteristics such as for-profit vs. not-for-profit networks and metered vs. not-metered networks

Crucially, we **reject the idea that people should be subject to eviction for non-payment of heat and hot water bills**. Such double jeopardy negates any hope of parity with people who use other forms of heating.

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**Q1. Do you agree with the scope outlined in this section and which networks the regulatory requirements should apply to? Please provide views and evidence to support your position where you can.**

We understand that student halls of residence, HMOs and nursing homes, where facilities are shared, pose different problems for pricing regulation from homes with meters. However (unless they are very small and not really a heat network at all) they are not so different from heat network homes *without* meters. And people in such homes can face very similar crises with outages and inefficiency. While customer service regulation could be more complex here, that does not seem like a good reason to exclude them from protection. Note that many such homes include people who are vulnerable to cold, extremely insecure financially, and/or in a weak position to speak up and fight on their own behalf. Like itinerant populations, they are often disadvantaged and ignored. **If they are to be excluded from heat network regulation we must ask you to say what protection you are proposing instead.**

**Q2. Do you agree with our proposed activity definitions for heat supplier and heat network operator and our assumptions around the organisation of district and communal networks?**

The maze of divided responsibilities is a key factor making it impossible for residents to get accountability from anyone at all. Please see, just for example, our report on Phoenix Works in Tower Hamlets, where tenants of Peabody housing association spent years trying to get a response from their social housing landlord, the development owners, the managing agent, the billing agent and more (see list on p.18 of our report [Holding Feet to the Fire](#)). We brought this to the BEIS team researching issues in preparation for the legislation, and brought residents to the team to detail their endless search for someone to hold to account (which continues to this day). We know this was one of the things the team were keen to resolve. It looks like regulation will bring some degree of ultimate responsibility so residents may finally have one port of call, but we are not confident of this. The division proposed here between suppliers and network operators (when these are not the same entity) looks like it could build in the same sort of nightmare where residents are passed from pillar to post, trying to find someone to go to for redress, or even for information.

The experience of applicants at a development in Southwark, who brought a first tier application to tribunal, was largely similar. They brought their case in an attempt to get a response from their housing association developer /freeholder in relation to high costs and regular failures of the district heating system. The freeholder provided a monetary settlement, but has failed to provide any detail or transparency in relation to the system, which continues to fail and is thought expensive by residents.

On first contacting us (June 2021) they said,

*The landlord (who is also the property developer) is Notting Hill Home Ownership. The heat supplier is probably also Notting Hill, it's not overly clear as we haven't been given any agreement. They do change their legal name frequently, as they have many umbrella companies, so it may be Notting Hill Genesis also. The company responsible for the billing only is Switch 2. Notting Hill have subcontracted the maintenance to a company called BSW, but it has been other providers in the past.*

**Please see Appendix 1 for a statement from a leading person on this development,, who has touched on many issues relevant to new legislation. The issues they raise are common to other developments we have worked with; this is just one example among many.**

On a more general point, please note that residents are aware of how a proliferation of “entities” means more fingers in the pie, with shareholders in numerous concerns taking money from their bills, and therefore from their children’s dinners.

**Q4. Do you consider that our approach to regulation is suitable for the large number of small networks in the sector?**

We agree that it is essential to spread the costs of regulation beyond the heat networks sector.

Small networks may need much more than “guidance”. As you note, many are ageing. Take for instance a small block of flats designed for people with disabilities in east London, where the communal boiler is past its useful life, causing constant hot water failures for disabled residents. Replacing or restoring this boiler and potentially more of the system is a major job, and residents cannot necessarily afford an increase in their rent. There will be cases where the landlord or agency running the building can step in and pay; there will also be cases where they cannot, or where they skimp to such a degree that the problem is never resolved because whoever they get in doesn’t know what they’re doing. Such problems can run on for years, severely impacting lives.

We would appreciate knowing what you propose for such a scenario, and whether it includes any mechanisms for complaints to trigger support.

**Q7. Do you agree with our proposed approaches for the authorisation of existing and new heat networks?**

We understand that you want to allow heat providers time to get to grips with new regulations. However, residents have been waiting a very long time for this legislation, and have suffered huge detriment during this wait. Many of the outrages they have been forced to put up with, under this monopoly, are actually already illegal but there is no way to get redress. There is of course housing law, but the balance of power is heavily weighted against tenants and residents, which is one reason why this specific regulation is necessary. It should build, as you say, a stronger framework for protection. The long gestation period of the HN legislation means that landlords and heat providers have already had years to consider what they need to do – and in some cases simply come to grips with the fact that what they have been doing illegally is going to need to end. These factors shift the balance on the “bedding in period” question.

Secondly, you propose that *“Ofgem would not expect to undertake a detailed assessment of these areas at the point of authorisation, as the onus would be on the entity seeking authorisation to provide confirmation at a suitable level of seniority, but Ofgem would have scope to undertake more detailed assessment if necessary via ongoing monitoring or audit.”*

For residents this approach, based on self-inspection and self-declaration will raise fears of a rubber stamping operation. The question then is, what will trigger a more detailed assessment, and will this involve independent inspection? Will a complaint be sufficient? If so, with what conditions, and will residents know how and where to make such a complaint?

**Q10. Do you agree with the introduction of an overarching Standards of Conduct principle for all heat networks? While we expect all heat networks to identify and support customers in vulnerable circumstances, we would be keen to understand if any networks would find this particularly challenging to deliver.**

If networks would find this challenging to deliver, what do you propose? We hope it will not be excluding any type of network from the requirements, leaving vulnerable residents facing

intolerable “challenges” themselves. Or, on the other hand, watering down the requirements for all types of heat network.

Meanwhile, provision for people identified as vulnerable should not help excuse or facilitate a failure to provide an acceptable level of service for all customers. In response to this report, an active resident notes,

*“One of the comments from our residents was "why do certain groups get special treatment if their heating or hot water fails and 'ordinary people don't - we all pay the same and should get proper service".*

*I do see why vulnerable customers need protection, but that should not detract from a system which functions poorly (for all) and needs urgently addressing!”*

**Q13. What are your views on Options 1, 2, 3 and 4 for centralised price transparency? What combination of options would work best? Please provide detail on why a particular combination could work well.**

In your paragraph on Context, you note that

*The price change and fairness questions in the Heat Networks Consumer Survey indicate that consumers have concerns about the prices they are being charged and these are not in line with expectations. This perceived unfairness could be explained by several reasons including a lack of transparency, recent gas price rises, network inefficiency, and excessive margins.*

It is important to note that where there is serious network inefficiency or excessive margins (profits) this is not a case of *perceived* unfairness that can be explained away. It *is* unfairness. Heat networks can be an efficient and relatively inexpensive and reliable way of heating homes, but for large numbers of customers this is so far from the case that they are forced to take their children to relatives in the winter. Many consider giving up their homes or attempt to opt out of the heat network, which very few can do. Many give up on their network and use electric heaters, ending up worse off because they pay for both and the space heaters are terribly expensive.

In this context, transparency is very important, but also insufficient. We are not convinced of the efficacy of “reputational risk” when many providers seem to ignore both media exposé’s detailed research reports, and pressure from MPs and local authorities. In terms of incentives, the fear of exposure seems to be far outweighed by major distortions built into heat networks at the beginning when developers are incentivised to choose a heat provider that offers advantageous terms to themselves – never mind the higher prices that residents will pay for the rest of their lives.

Re the proposals in your chart,

- The “pro” of options 1 and 2 in your chart, “including efficiency characteristics could provide an incentive to make improvements and reduce costs” is crucial.
- We don’t understand how “a network’s own consumers will identify where the network sits within the ranking, using their individual billing information” – who will realistically be able to do this?
- Option 3 is not really transparent at all. Having rejected price controls in favour of price transparency, to go for such a very low level of transparency would rather make a mockery of the goal of protecting heat network consumers from unfair prices.
- Instead, there are areas where much MORE transparency is needed. In particular, Residents have sought, but been denied:
  - information on the negotiated price of gas (they are not confident that every effort is made to negotiate the best deal, since they will cover the cost through their bills), and government support

- information about income from the sale of electricity, in Combined Heat and Power systems. As gas prices have risen, so has this positive income, which can be substantial. Yet how much of this – if any – is passed on to benefit customers' bills? No one seems to be able to find out, and when we raised this issue in our meeting with Ofgem on heat network regulation and pricing (5 May 2021) the researchers were unaware of the issue.
- information on what is going to capital costs, which may include costs of developing the estate and its heat network before they move in. (This was disputed eg in Pembroke Park, Hillingdon, another case we brought to BEIS, and some redress was won in the end, but many residents will not be as tenacious). The current crises in Islington developments show that expectations are not sustainable.
- how much is added to bills because of gross inefficiency in the system (including heat loss which is overheating their homes).

Of the choices you offer, we would prefer Option 1, in combination with the “best performers” component of Option 4. The potential for prices to be increased in low-priced network outliers could be mitigated by “best practice” publicity around what they achieve.

We would be in favour of a checklist for transparency that addresses questions related to billing and metering costs, meter accuracy, fuel procurement, network efficiency, expertise of network operators, profit margins, service and standing charges, capital costs, and cost-sharing responsibilities between tenants and landlords. The beginnings of such a list *for tenants* can be found on page 61 [here](#): “A checklist for transparency”.

**Q14. What do you foresee as the main challenges of each option for centralised price transparency?**

- We're concerned about the potential for disclosure incentivising price increases for outlets with low prices. We would like to know what you propose to do to mitigate this risk.
- The challenges of comparing prices are huge, so long as heat networks have different standing charges/service charges, different rates for prepayment and credit
- meters, and sometimes differences between tenants and leaseholders, high users and low users etc. Unless networks are forced to comply with a standardised pricing scheme, it will require a great deal of work to make comparisons, and it may be difficult to understand the results. A key part of any such attempt should be calculation of a series of standard *example* situations showing what the results would be at a range of chosen example levels of usage.

**Q16. Do you agree with the broad set of outcomes (in the bullet point list on page 41) that would define our expectations on fair pricing?**

It's a good list, but what has come to be known as “aspirational”. We don't really see how the results in practice will come close to it, because of the many issues raised in this response.

**Q17. We are interested in stakeholder views on the balance between prescriptive rules (setting minimum standards) and general guidance, that could be introduced across all heat networks. Which areas, in Table 4 above and Appendix 1 Fair Pricing - rules and guidance, should be covered in rules, which should be covered in guidance, and which should be left to the market?**

We are not equipped to make detailed recommendations here, but urge you to bear in mind that the bodies involved are widely either profit making or hard pressed local authorities, both with an eye on their bottom line. Good will and good faith absolutely cannot be assumed, let alone a commitment to make every effort to keep costs and prices down.

Although there can be perverse effects from overprescription, this reality should bias you towards a more prescriptive approach. You meet regularly with the industry, and sometimes with consumer advocates, but very rarely with the people who daily wake up to cold showers, or cannot afford to feed their children. They have a different perspective.

**Q18. Should cost allocation rules be applied uniformly across the sector, or should there be different rules for different segments? If the latter, what segmentations do you suggest? Please cite examples of good practice for your suggested approaches.**

There is an important distinction between tenants and homeowners: in homes with individual gas boilers a tenant is not expected to bear the cost of providing, maintaining, insuring, or replacing the boiler, pipes, radiators or thermostats. In heat networks, tenants are routinely told that their prices are actually not as high as they seem, in comparison to gas, because their prices include the capital and replacement costs of their heat system. Their prices should *not* include those costs.

**Q19. How are the current tariffs charged by heat suppliers broken down into the components of standing charge and variable charge? What are the variables affecting the cost components and what are their accounting / financial methodologies? We would also be interested to know how very small networks decide how to set standing and variable charges.**

Where costs go onto standing charges, this is regressive: people who cut down their energy use to the bone still pay a high price. The injustice of standing charges is increasingly recognised in the regulated market. In heat networks where the standing charge can be an even higher proportion of the bill, the discrepancy is magnified. This relates to your question on “how different socio-economic groups may be impacted by cost allocation changes.” It

can also mean residents living in terror of eviction from their homes because of standing charges being included in their service charge or rent (see below Q44).

**Q24. What are your views on the proposed benchmarking approaches? Do you agree that Ofgem should develop options 2, 4 and 7? With each approach, what are the main considerations and implementation challenges for the sector that should be considered when developing the methodology?**

**We believe a crucial benchmark is what customers can afford.** Aberdeen Heat and Power benchmarked their prices for years to 10% of income, in housing where many residents’ income was very low. In our [2021 report](#) (p.62) we wrote, *“With huge numbers of people now living in the cold because they cannot afford heating, Ofgem is promoting a principle of “Ability to Pay”, in relation to gas and electric bills and repayment of debt. In the heat networks world, this principle has actually been applied by Aberdeen Heat and Power: in setting prices and working out its policies, it takes account of the incomes of its residents, ensuring that the cost of heat and electricity does not exceed 10% of their expected disposable incomes. This 10% figure is the threshold for “affordable warmth” in Aberdeen, as previously in London. 26 Aberdeen Heat & Power’s flat rate heat charges are currently £10.54 per week for council owned flats of one to three bedrooms.”* The price of gas now makes it impossible for Aberdeen Heat & Power to keep to its previous affordability criterion, but what they achieved throws other benchmarks into sharp relief, and indicates what can be done if the will is there.

Of the options you propose,

**Option 2** provides answers to what people want to know. Whatever option chosen, people will be attempting these comparisons. A key principle of legislation must be that heat

network users should be protected from high prices and unreliable heat, like anyone else in the UK. That will not be possible to achieve without benchmarking prices in relation to prices elsewhere. In response to this question a resident said,  
*“An honest benchmark of district heating v traditional individual boilers would be invaluable (including all maintenance costs, as well as heat unit and billing costs!)”*

**Option 3** would be useful but does not answer the main question, which **Option 2** addresses.

We can't quite understand how **Option 4** would work, or the reasons behind your analysis of its advantages. We suspect people would be likely to use it to make approximations of what **Option 2** would yield, but we could be wrong. Note however that it looks like it's based on making prices “fair” where “fair” means fair to the heat provider. **From a user's point of view, a high price is no fairer in a clunky old network than it is in an efficient new one.**

**Option 5** would be a disaster – a licence to run bad heat networks and let residents pick up the tab.

Only **Option 6** really deals with the crucial issue of overcompensation and the equally crucial issue of motivating efficiency (if we have understood it correctly).

We don't think **Option 7** fulfils the purposes of benchmarking. Customers and the public would be left without a way of making the comparisons that they need to make, and are already making, with inadequate information and faulty methodology.

**Q25. What are your views on how Ofgem should approach segmenting the market for price benchmarking? What are the main characteristics that should be considered?**

It would be useful to compare prices between for-profit and not-for-profit networks, metered and not-metered heat networks, CHP and not-CHP networks, and networks using gas as a fuel and networks with heat pumps (or wood chips - but that seems to often just mean using a reserve gas boiler). How benchmarking could contribute to that is another question, but these segmentations would provide useful information.

**Q26. What are your views on how Ofgem should approach guidance on price investigations? Do our proposals cover the type of content stakeholders would expect?**

**Q27. What information and evidence should Ofgem be seeking as part of our monitoring activity to identify where there is a case of disproportionate pricing?**

Re the type of content residents would expect, please refer to the checklist in Q13 and our own checklist on page 61 [here](#).

The bottom line is that prices should be *affordable* (see also Q24). If they are not, something is wrong. It could be efficiency, the inclusion of development costs, failure to count profits from the sale of electricity, profiteering, or bad maintenance – all of these the responsibility of the heat provider. Now, the price of gas is likely to be a factor, but is it being procured at the best possible price? Residents will bear in mind that many of them could not afford to heat their homes long before the gas price crisis. Another factor is the state of insulation and repair of the home, which is the responsibility of landlords or freeholders, who are often also the heat provider. Whatever the cause, if prices are beyond what residents can pay, the result is disastrous for these families or, often, single elderly people, and the heat provider ends up with a lot of bad debt that just cannot be repaid.

It is crucial to hear from residents themselves. In some places people will not be able to speak up, or may not be motivated if they don't believe it will do any good. In other places residents have been trying everything to be heard, including going to the press, to their MPs, to BEIS or DESNZ, to Ombudsmen, to Citizens Advice and to us, without achieving significant progress. In some cases people say they have been victimised by their landlord for raising issues with the heating (see Appendix 1).

Every complaint should be taken seriously, but in addition an important move is to approach and listen to elected representatives in tenants and residents associations or equivalents (but not focus groups hand-picked by social landlords). Heat networks are communal, and communal voices should count.

There are two questions about the price investigations, but nothing about sanctions, here. Formulations like *"requiring some form of performance review to identify interventions for long term cost reductions"* are not reassuring. Who will identify interventions, who will do them, and who will ensure that they are done, and when? We hope these questions will be

answered in future stages of your work, as without real teeth, no regulations are effective. Similarly, *"When carrying out this work, Ofgem will be mindful that consumers have existing rights to challenge prices they perceive as unfair"* will sound like a cruel joke to residents who have done everything they can to challenge unfair prices, but have run up against a brick wall of obfuscation, refusal of information, dismissive operatives, and unaccountability. If things are to change, assessments must be more realistic.

**Q28. Do you agree that price regulation, such as a price cap or profit regulation, should not be introduced in the near term but that this should be kept under review?**

You say, *"... there is currently no clear evidence of widespread disproportionate pricing. . . The government will consider introducing price regulation in the future should there be evidence of widespread consumer detriment,"*

Yet all studies agree that while the *average* price for heat from heat networks is at or below a societal norm, there are very substantial numbers of cases where the price is far above that. Our question is, **how many people have to live in inhuman conditions before it is enough to prompt a cap?** For the reasons above, we cannot count on performance reviews etc to actually bring into line businesses which have shown they do not have the capacity - or do not have the will - to deliver. We understand the concern about failing businesses, but the solution must be to ensure they have both the means and the discipline to provide heat at an affordable price, or take them over. Otherwise preventing "operator and supplier insolvencies" just means individual families become insolvent instead.

Profit regulation does not pose the same risk of insolvencies that a price cap might.

Heat network users have also grown tired of the talk of the "nascent industry". The industry is now not so young, and many of the players in it are well established; some of them indeed are major operators in the regulated energy market. Children have grown up while the market "matures". Grandparents have died in homes where people are waiting for rescue from their failing or unaffordable heat.

Fuel Poverty Action is putting forward a revolutionary change to energy pricing, in the form of Energy For All, which would guarantee that each household has enough energy free to meet its basic needs, while charging more for excessive use. It will be financed largely by removal of fossil fuel subsidies, and, at present, by windfall taxes. We would be glad to discuss with



DESNZ and Ofgem how this policy can apply to heat networks. The basic principle of ensuring that basic needs are covered informs our comments throughout this response.

### **Q29. Do you agree with this approach to regulations related to complaints handling?**

We are hopeful that regulation will greatly improve the standard of complaints handling, reducing the number of hoops that heat network users are now forced to jump through, only to see their complaint go unresolved, and often not even *recorded*.

We recommend that with the complainant's permission in every case, complaints should be put online, along with the response and follow up. This will not only act as an incentive to effective responses, but will let other residents on the same network know if others are having the same problem.

The Ombudsman's requirement for complaints to be made by individual customers/residents instead of by a group wastes people's time and can only lead to less satisfactory outcomes. Many estates and developments have active tenants and residents' associations, or at least informal groups often led by one well-informed person, who can report problems better, with more accuracy and more oversight than any individual. We have seen a common assumption by heat network staff that customers have all day for disputes, as if it were their job. Many, many people give up because they simply do not have the time or energy to follow through on complaints on top of their other commitments, or, for example, age or health problems. Where an association or individual is doing substantial work to resolve issues that are the responsibility of the heat provider, they should be financially compensated, to help them access, for example secretarial help.

### **Q30. Do you agree with the proposed core elements of the Guaranteed Standards of Performance?**

Yes. Please see also our [response](#) to the [2020 Heat Trust consultation](#)

Comments:

- There should be a Requirement for the heat network to maintain a *public (online)* register of interruptions, *including their duration*.
- Sanctions should be punitive. You say, "*we want the regulatory regime to incentivise that the length of these interruptions is minimised and the frequency of interruptions is reduced.*" Please note that the Heat Trust compensation regime has not proved sufficient as an incentive to solve a problem, rather than letting it continue and compensating residents.
- You say, "*However, they [PSB standards] are not designed to compensate consumers fully for subsequential financial loss.*" This is clearly true, but unacceptable. Compensation should cover financial losses but also go beyond that, to the very real pain and suffering produced by the shocking - and worsening - standards of reliability you acknowledge on p-51.
- Compensation for financial losses – beginning with the need to pay for alternative sources of heat and hot water, should not require proof. The most unjust obstacle put in the way of some customers is a demand for proof of how much more you have spent due to having to use alternative heat sources. This is very hard to gather, -- even if people weren't under stress, time poor and in bad situations, it is not straightforward to do. Many people cannot show increased bills because they do not spend the money they do not have (if they are on a prepayment meter) or cannot count on (if on a credit meter). Comparison with other years does not work if you are in a new flat, or the weather or your family size or circumstances have changed and in some cases there is no year with reliable district heating to compare to.
- There are ongoing disputes about what time should be recorded as the start of an outage, and what time should be recorded as its end. These include the question of whether it is up to residents to notify the provider when service stops, what happens

if this is at night, whether the outage can be recorded as resolved when heat has not yet been received in residents' homes, etc. The long-suffering residents of Oval Quarter, in Lambeth, have done a lot of work on this, which should all be on record at the Heat Trust.

- There should be no cap on GSP payments. Failures of service should be fixed.
- For much more about compensation, which is a critical issue for many heat network users, please see our several responses to [other consultations](#) and our [two major reports](#). Of these, [Holding Feet to the Fire](#) details residents' battle to win compensation not, in this case, for outages, but for chaotic pricing and management that left them poor and in the cold. From 2019 - 2021 we worked with Southwark local authority, alongside residents and Southwark Group of Tenants Organisations to establish a compensation regime that would - as they had promised - guarantee no resident would be out of pocket from their heat networks' frequent outages. This promising initiative was aborted following internal problems in the department but could still prove a useful model.

**Q40. Do you agree with the proposal to require heat suppliers to operate a Priority Services Register and provide specific services for consumers who need them? As previously stated, we would really welcome views from networks that would find it particularly challenging to deliver this.**

If you welcome views from “networks that would find it particularly challenging to deliver specific services, what does that mean for the “consumers who need them”? We look forward to seeing how you will ensure that they are not left in the cold because the challenges of the heat provider take priority over their own.

In addition to the provisions you list for people on the PSR (passwords, information, etc), it can obviously be vital to provide alternative access to heat and hot water. This means not only the necessary equipment but also financial support to use it – not afterwards (and not dependent on submission of bills) but in advance. This is particularly important where the resident has a prepayment meter for electricity.

**Q41 (part 1) Do you agree with our approach to drive good debt management practices and deter disconnection?**

We do not accept the forced imposition of prepayment meters as part of debt management (see below).

There is a clear and urgent need for a wider disconnection ban – and PPM imposition ban – for specific consumers in vulnerable circumstances beyond the heating season, such as those who are medically dependent on heating and hot water due to medical conditions and households with young children.

In relation to third party payments, (in your words “charging for energy directly from benefits for customers in debt”) we’d like to draw your attention to the vital court precedent set this year by a disabled woman who had had her welfare benefits garnished by utilities without her consent (and in fact taking money that she didn’t actually owe). A summary of the case can be found [here](#).

The continuation of standing charges after supply has been disconnected is also unjust – and perverse, given the fact that people disconnected for non-payment will clearly be unable to pay hefty back-charges for a period when they were not even to access the supply. Is the purpose bankruptcy? Eviction?

**Q41 (part 2) Do you agree that assessing ability to pay and offering tailored repayment plans is possible for small heat networks operated/supplied by small entities?**

If necessary the costs should be spread beyond the heat network. Leaving people to become more ill, more disabled, or die is not an option.

**Q44. Do you agree that non-payment of heat charges when part of housing charges should follow housing non-payment protection rules?**

Residents living in terror of eviction from their homes because of either the whole heat bill or the standing charges being included in their service charge or rent. Whether or not this is supposed to happen, under housing law, it is threatened, e.g. recently, in Lambeth council housing. From Roupell Park, a tenant wrote to us,

*I am a council tenant (Lambeth) and single parent with a primary school age child. We have been informed at very short notice that our service charge has increased over 300%. It is four times what it was in March and I can't keep up.*

*The inflation comes we are told by rising heat and hot water costs that we pay as part of our rent due to district billing. In some ways it would be preferable if the only thing being threatened is being cut off but if I can't pay this I think the plan is for me and my child to be evicted.*

*Overnight, I have gone into severe rent arrears and there seems to be no recourse to appeal. Low income tenants cannot get help e.g. from housing benefit because service charge is treated differently to rent burden. What on earth can I do? I have cut back to almost nothing but there is a limit to what you can cut back with a child without causing serious neglect of their needs. What help is there for us?*

Threats of eviction issued to tenants in this situation were the subject of heated criticism and debate in a Lambeth Council Scrutiny Committee meeting (18/5/23) and we know of at least one case where Notice of Seeking Possession was issued to tenants in sheltered housing (Macintosh Court) following a 250% increase in heat and hot water charges.

In answer to your question, **housing law designed for non-payment of rent is not suitable for non-payment of energy costs, whether or not these costs are integrated in their rent or service charges. People who are not on heat networks may face disconnection as heating costs rise – but not the far worse penalty of losing their homes. There should be an explicit and public ban on evictions - or threats of eviction.**

Where the landlord and the heat provider are the same entity, this gives them additional responsibilities to ensure the energy efficiency of the home. In some cases, if heating costs become unaffordable, housing providers should commit to reducing rent to maintain affordability.

Matthew Drage, a single property landlord wrote to us about how the risk of eviction can also affect tenants renting privately in a heat network development:

*As the owner of a property in the Switch 2 communal heating block of the Royal Arsenal development in London, it still pains me that I had to evict a tenant for non payment of heating bills as all charges were simply passed onto me as a landlord. I think there needs to be protection against this, or the risk of evictions when a tenant falls behind on payment remains significant.*

Again, a tenant with an individual boiler risks disconnection for non-payment of bills, but not eviction.

**Q46. Do you agree with our approach for ensuring that consumers in vulnerable circumstances do not resort to self-disconnection or self-rationing and that PPMs are only used where appropriate for the consumer?**The [prohibition of disconnection and prepayment meters in the provision of water](#) has shown that where basic life necessities are involved, supply is a basic right and denying it is unnecessary.

We do not accept that Ofgem's new Code of Practice for imposing PPMs is a good starting point, and we're glad you are considering diverging from it. It has been presented as a tightening of conditions, but it is not clear that an age limit of 85 (and no one younger in the dwelling) is actually better than the vaguer previous requirement to take account of vulnerability. However, whatever the "conditions" on the granting of warrants, the problem is enforcement.

Last year, the process of issuing and enforcing court warrants for PPM's (on all forms of energy) was totally discredited. The media exposés proved that legal conditions on forced imposition are ineffective. Not only suppliers but the courts themselves were ignoring them. Suppliers claimed not to know what their contractors were doing when they turned up at an address – despite the fact that we and others had repeatedly and dramatically told them, e.g. [here in 2016](#). Attempts over the years to control these warrant installations have shown that the regulatory approach of setting conditions does not work. The reimposition of warrant installations, expected in November this year, is a brutal extension of a traumatic and often violent practice. Prepayment meters should remain an option for those who freely choose them. Otherwise, they should be banned.

**Q47. Should we include financial vulnerability as a required consideration for whether a PPM is 'safe and reasonably practicable'?**

Yes. If it is not included, people will simply be left unable to access supply.

**Q53. Do you agree that an equivalent approach implementing standards of accuracy and processes for pattern of construction and manner of installation regulation in the heat meters market is proportionate? If no, please provide an explanation and support with any available evidence.**

Yes. It is fundamental for people to be able to have confidence in their bill.

**Q55. Is the cost effectiveness tool fit for purpose, and should we continue using a similar tool for meter installations? If you think we should retain the tool, what changes do you think could be made to the tool? How would these changes increase meter installations in existing unmetered networks?**

Any cost effectiveness tool should take account not only of the cost of meters and installation, but the costs of individual billing, assessing vulnerability, and bad debt.

**Q57. Do you agree with the proposed rules on billing information, frequency, and method?**

Bills should include information on the price of gas or other fuel purchased, and the date of purchase, and access to information for transparent comparison with prices elsewhere.

**Q58. Do you agree with the proposed rules on back-billing, price change notifications, and heat supply contracts?**

Back-billing: You have to wonder what is the purpose of demanding a huge sum of money that people have not planned for and in many cases will not be able to manage 12 months let alone 18 months back billing. What will it mean for people's lives to have such a debt hanging over them through no fault of their own?

Heat supply contracts: The requirements listed in your Appendix 2 do not include notifying prospective buyers of the risk of huge capital payments being required in the future. Demands for tens of thousands of pounds for replacement and updating of heat network infrastructure (as in [Islington](#) now) are such a major issue that the risk of this happening could easily put off potential buyers. That in turn could put developers off choosing to put in a heat network – so long as they have a choice – undermining the growth of the sector. Instead, the risk is kept secret, and then the axe lands without warning on unlucky individual leaseholders. This is not a solution.

This is complicated by the need to move to low carbon heat sources. That need is real and urgent, but as things stand, the households that may be forced to pay extra have no control over the choices being made on their behalf, and are not compensated for them.

We do not have information on how tenants' standing charges may be affected by large capital costs but there is a clear need for transparency here too, in relation to bills and in relation to tenancy agreements. In practice few people are in a position to turn down an offered social housing tenancy because of such a risk, but transparency remains important. Tenants should no more be forced to contribute to capital costs than leaseholders.

In addition to the huge demands we refer to above, residents are currently unable to challenge maintenance costs that result from bad management, over which they have no control. Please ensure that any new legislation deals with this. Our, Southwark contributor, again:

*Notting Hill Home Ownership announced last year, they plan to replace all HIU units in the development. This will be service charges to residents. They say this is due to HIU old age. I suspect poor management of the system has caused them to degrade faster (they clog up with debris and there are pressure issues) and 8 years is not a reasonable lifespan for an expensive HIU. These costs were not disclosed at sales - we were not told the system would need to be replaced in under 10 years.*

**Q68. Do you consider that the proposed compliance and enforcement framework is appropriate for ensuring that non-compliance is addressed?**

Requirements must be stringent enough to overcome powerful vested interests and close relationships that can develop between the parties involved in providing heat and legislative and even regulatory bodies. May we draw your attention to Pennsylvania Heights in Portland, Dorset, where residents have for the past nine years been detailing what has every appearance of fraud, to Ofgem, their MP, and the OPSS. The case concerns the network's meters – already subject to regulation. [Apparently](#) almost all the metering units have failed, with residents subject to estimated billing, yet Ofgem has continued to make RHI payments on the basis of what is submitted to them. The police are investigating a six figure sum of missing money, but the existing heat network regulations seem not to be in any way enforced.

We heard from a leaseholder in Southwark, with a proposed model, using the work done on fire safety post Grenfell:

*“Developers knowingly build not fit for purpose district heating on new developments and cover up / patch up the faults until the defect period has ended. Transparency rules are required and potential protection from costs as per the recent fire safety laws re build defects. Our developer, Notting Hill Home Ownership has admitted to BEIS the system has not performed since build, but is not being transparent with residents.”*

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We recognise that some of our comments here step beyond the questions asked. We believe however that it is a problem that DESNZ and Ofgem primarily hear from the industry and from advocates who, however well intentioned, are personally removed from those they represent or research. What appears “fair” from one perspective may look grossly unjust from another. We strongly recommend a public inquiry to uncover the causes and consequences of issues like those experienced by the residents’ whose experience we have attempted to present here. Such an inquiry can provide insights into the breakdown of financial responsibility, transparency, and governance in heat networks, helping to prevent similar situations in the future.

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## **Appendix 1 Case study: A development in Southwark**

The development was built on land provided to NHHO by Southwark council - NHHO is the developer in law. It was a new build, with the first of 5 blocks completed in 2014 and the last in 2015. Notting Hill Home Ownership is both developer, freeholder and managing agent (They also use the trading name Notting Hill Genesis).

The development is mixed tenure, with social rent (approx 25%), shared ownership (approx 50%), private leasehold (approx 25%), a few terraced townhouses and a few commercial units. The development was sold as very 'energy efficient' in terms of both build and heating / hot water.

I am a shared owner and purchased / moved in from new.

From build, it was immediately apparent there were serious problems with the district heating system which supplies the properties on the development with hot water and heating; there were frequent leaks (which caused substantial damage) from the communal and local pipes, both small-scale and catastrophic. The corridors and buildings were very hot. The cold water was hot (hot and cold pipes had been laid next to each other, with no insulation). The system broke down very frequently, both in properties and on a large scale across buildings or development. The bills are high and there were incidents of extreme / inexplicable billing spikes, an issue which has never been explained. Residents (included disabled, families with young infants etc) were left without heating for months in some cases.

There were a large number of complaints from residents. NHHO could never give us a straight answer - sometimes (when we asked why they could not address the problems with the builder) they said it was poor maintenance, sometimes (when we asked why they could not take up the issues with the maintenance contractor) they said it was build issues. We went round in circles. A few times, they said they had fixed the issues, but the problems always returned. NHHO would never give us transparent open information about the system, or exactly why it broke.

After a few years of this, we got fed up. Initially, we held meetings with Southwark council (who had sold NHHO the land, so were an interested party) NHHO apologised and promised to do better, but little changed. Subsequently, we, as a group of residents, asked NHHO to attend formal mediation to resolve the issues. They refused, therefore, I led 100+ leaseholders in a first tier tribunal case against NHHO for the tribunal to determine reasonableness of service charges levied between 2014 and 2020. We claimed that our service charges funds had been misused as a) we were being charged for repairs of build problems with the district heating system (these costs should be covered by the developer under new build guarantee - it is abundantly clear the system was not fit for purpose from build) and b) we had been charged for poor quality maintenance by untrained, inexperienced workmen. We also challenged various other matters.

NHHO would not release full information on the district heating system, and did not provide all invoices for works, but attached to some of the invoices we challenged under the service charges case, we could see attached engineers notes stating works charged to residents were clearly build defects. Additionally, NHHO inadvertently released internal email trails to

residents (and more recently FOI requests) which revealed NHHO were aware of the problems in the system from a very early stage, even while they maintained to residents that the system had been checked and was defect free. In one email trail accidentally released, it is clear NHHO were made aware of a serious problem with the gas safety in the plant room (unsafe flue). This issue was not acted upon for years and a replacement flue was only installed last year, after a series of mass outages of heating had caused scores of residents to email NHHO board, complaining.

We settled the service charges case in Feb 2023, via a Tomlin Order, but still await NHHOs compliance with all the settlement terms (they are overdue). Further, we still do not have transparency on the heating system, and there are still various complaints about its performance despite a large works program (funded by a BEIS grant) last year.

We still don't have sufficient information, but what we do have seems to tell us the below about the various costs of the district heating system:

#### Via Service Charges

- Reserve fund (sinking fund) in relation to costed replacement of system / parts over time
- Maintenance of plant room
- Maintenance of communal pipes
- Maintenance of demised HIU and associated pipework within dwellings
- Management fee for NHHO to manage subcontractor
- Management fee in contractors costs for their management of our site
- Various surveys of system
  
- Repairs to system
- Repairs to Switch 2 system, including replacement in property meters - they break quite a lot

#### Via Heat bills (Switch 2)

- Gas supply to plant room, (including VAT?), this is costed back to us as heat units kWh
- Switch2 admin fee - £0.28648 a day - it seems this is just for them to manage sending customers a bill +20% VAT
- Gas standing charge (for gas supply to plant room) - £0.15248 plus VAT 5%

The standing charges do seem very high when compared with standing charges for traditional boilers etc and it does seem like Switch 2 are profiteering, given they maintain nothing, those costs are already covered in the service charges.

We have never seen an actual gas bill for the supply of gas to the plant room, so have no idea of the cost of that, or if it is being fairly attributed.

We also have no insight as to the efficiency of the system, but it would seem that it is not running efficiently, which increases residents' bills.

NHHO announced last year, they plan to replace all HIU units in the development. This will be service charges to residents. They say this is due to HIU old age. I suspect poor management of the system has caused them to degrade faster (they clog up with debris and there are pressure issues) and 8 years is not a reasonable lifespan for an expensive HIU.

These costs were not disclosed at sales - we were not told the system would need to be replaced in under 10 years. It does not seem like the 'affordable, designed to be low maintenance cost' homes we were sold.

This is on top of all the repair costs and the non performance of the district heating system for the entire time we have lived here - it's simply never worked and not only have they failed to fix it in good time, they now try to bill us to fix it under the guise of 'wear and tear'. To me it does seem like they have just patched up the system until such time as they have determined that they can claim 'old age' and replace it.

Finally, I personally have been victimised by NHHO as a result of my raising issues (with the district heating system and other building and management issues). My complaints are frequently fobbed off, upon persistence, I have been marked 'a customer who will never be happy' and 'complains unreasonably'. NHHO put me under a contact ban as they claim my requests for accurate and honest responses about issues are unreasonable. Internal emails accidentally released reveal NHHO staff making jokes about me etc. They have also provided incorrect information to the ombudsman about one of my complaints. The ombudsman declined to investigate complaints I made about the building as 'they do not get involved with build defects', saying it was outside their remit.

Other than the service charges case, I have an individual disrepair claim against NHHO and a group fire safety claim. I believe they see me as a 'troublemaker' who should be punished as a result of my leading the service charges case for the 100+ others. NHHO's treatment of me for simply requesting the building and management I and others have paid for is simply inhumane - no one should live under the conditions they have put me through.

I remain determined to speak up as I think the more of us that do, the more chance the issues will have of being resolved. I am also very aware of how much effort this takes, so play my part, also, for those who are unable (for various reasons) to speak up for themselves.

An interesting note - the service charges settlement that was agreed for 6 years worth of incorrect service charges paid to approximately half the development (the case could only apply to some leaseholders) was equivalent to more than the cost to NHHO of bringing one social unit at this development to market. This does not include the cost of defect repair, just badly managed service charges. To me, this was eye opening and goes to show how many more social homes could be provided if housing associations even reached basic standards of management. I am appalled at their squandering of money which could do so much to help with not only the housing crisis, but fuel poverty.

I hope sharing my experience will help to improve regulation of this sector.

24 October 2023