

Energy Action Scotland Response: Heat Networks, Implementing consumer protections

Introduction

Energy Action Scotland¹ is the national third sector membership organisation dedicated to ending fuel poverty in Scotland. Energy Action Scotland has been working with this remit since its inception in 1983.²

Fuel poverty is driven by four main issues, these being high energy costs, low disposable incomes, poor energy efficiency of homes and how energy is used in the home. In Scotland consistent with the definition within the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 there are over 1 in 3 households estimated to be in fuel poverty. Almost 1 in 4 of Scotland's households endure extreme fuel poverty, simply unable to afford anything like the level of energy to maintain and protect their health and wellbeing.

Fuel poverty is not evenly distributed in society and factors including geography and climate impact on communities whose residents may further be affected by medical and social conditions that magnify disadvantage. We believe that Heat Networks have the potential to provide real improvements to some communities with high standards of care and fair pricing especially within a not-for-profit model. Our experience of the practices of Aberdeen Heat and Power³ in the NE of Scotland has consistently demonstrated that fuel poverty can be reduced and people protected through the responsible provision of energy through a heat network.

Balancing prescriptive and principle based regulations

Energy Action Scotland believes that in a market with actors commercial, not-for-profit and community owner that it is important that consumer protections are both prescriptive and principle-based. This begins with the implementation of a cross-cutting Standards of Conduct principle that provides a framework for heat network suppliers to ensure that they treat customers fairly.

As good and fair as many early developer of heat networks have been, fairness and standards should not be left to be defined by individual organisations in a market that is set to expand and grow. The Heat Trust has provided leadership in this area and many heat network providers adhere to its guidance. The Heat Network Consumer and Operator survey⁴ demonstrates that there is likely a higher proportion of vulnerable households supplied by heat networks than in the energy sector. In Scotland many heat network consumers live in social rented accommodation. In

¹ www.eas.org.uk

² Energy Action Scotland works closely with its sister organisation National Energy Action to provide a cross UK experience

³ <https://www.aberdeenheatandpower.co.uk/>

⁴ Gov UK (2023) [Heat Network Consumer and Operator Survey 2022](#)

typical settings social tenants are recognised as being the tenure group with the greatest likelihood of enduring fuel poverty.

All households must receive, at minimum, equal standards of protection. We believe that all regulation of heat networks should be with regard to and supports the reduction of the likelihood of fuel poverty.

Arrangements to ensure fair treatment of consumers on an enduring basis

We welcome the establishment of regulations for heat networks, though note that they will not be introduced until at least 2026 and enforced from 2027. It is important with persistently high fuel poverty that consumer protection regulations are in place as soon as possible. For some households the absence of regulations results in an inconsistent experience and for some heat network operators whose standards are high affords economic disadvantage against those with an absence of good quality performance.

We support the intention to apply retail energy standards regarding complaints handling, the appointment of the energy ombudsman as an alternative dispute resolution body, and the development and implementation of guaranteed standards of performance for heat networks in the future.

These measures should improve consumer experience. An important outcome of this work should be clear guidance on the responsibilities and consumer expectations of different actors in the heat network space.

Due to the complicated and varying structure that heat networks in Great Britain have, there is no guarantee that the proposed regulations will deal with issues of consumer protection as intended. The absence of competition in the heat network space also makes it difficult to drive improvements through implementing consumer protection measures. We believe that there are lessons to be learned from the standards applied with electricity and gas markets which can enhance protections in heat networks. But the regulator will need to be prepared to enforce against heat networks which do not comply to the new regulations, and to bring forward policy solutions quickly for where the regulations are not working as intended.

Protecting consumers of small and non-profit networks

There needs to be a sensible and proportionate approach taken to regulation that can support the development of existing and new heat networks. It must be recognised that there are not-for-profit operators within the current market and there is potential for new entrants. The blanket application of standard has the potential to damage the experience of consumers of small and non-profit heat networks.

Where the resources of small and non-profit networks are insufficient to deal with financial penalty without damaging customer experience there should be other forms of sanction available. This should include the requirement to submit improvement plans which can be monitored against. But without the risk of ultimate financial penalty these plans are unlikely to achieve the same level of standards for those consumers compared to consumers in electricity and gas market and those on larger commercial heat networks.

Consultation Questions

6. Do you agree or disagree with our proposals to apply some consumer protection measures to bulk supply activity? Please provide evidence and reasons for your response.

Yes. Without application of consumer protection measures to bulk supplied networks, there is a risk that consumers will experience suboptimal standards including increasing risk to fair pricing relative to the network provision costs.

9. Do you agree or disagree with the proposed approach to ‘supply to premises’ conditions?

Yes

10. Do you agree or disagree with our proposed approach to the Standards of Conduct?

Yes agree with the proposal to implement Standards of Conduct for Heat Networks. In the retail energy market, establishing standards has been instrumental for ensuring that consumers are fairly treated.

13. Do you agree or disagree with our approach to a principle on the security of supply?

Standards for security of supply should not differ according to network characteristics. All consumers should be able to expect a reliable supply of heat. However, consumer characteristics, especially vulnerability, should be taken into account as part of this condition.

Proposals around Guaranteed Standards of Performance may provide this assurance to vulnerable consumers. For consumers of small and non-profit networks, the proposal is that networks would have to submit improvement plans. This provision may not sufficiently reassure consumers that they have a secure supply but we recognise the need for proportionality.

16. Do you agree or disagree with our proposed overall approach to vulnerability, adopting the existing Ofgem definition for gas and electricity consumers but combining this with targeted protections for heat network consumers, where needed, through the authorisation conditions?

Yes, we agree that adopting the existing definition of vulnerability is appropriate in the Heat Network space. Heat Network consumers should experience treatment at least consistent with what they can expect to receive from their electricity supplier.

With regard to the development of heat network regulation, Ofgem and DESNZ should take account of the recently launched workstream on debt standards in the retail energy market. The “debt guarantee”, which Ofgem is aiming to achieve through that

work, should also be an ambition for heat network consumers.

17.Do you agree or disagree with our proposed protections from disconnection? Please give reasons or supporting evidence for your answer, and clearly outline any alternative proposal.

Yes we agree. Being disconnected from heat can have significant consequences for households, both in terms of physical and mental well-being.

The most effective way of preventing disconnection would be to drive a high standard of practice with regard to how heat networks approach debt recovery. In the retail sector, Ofgem are currently undertaking work to improve standards for debt recovery. This includes the potential creation of a “debt guarantee”.

18.Do you agree or disagree with our proposal to align with gas and electricity PPM protection rules?

Yes we agree that where PPM exists or has the potential to exist that this should be aligned with that of gas and electricity.

However there areas within these rules that may be difficult for all heat networks to follow. The first is about conducting proper vulnerability assessments. We are concerned that small networks may not have the capacity to conduct thorough assessments of vulnerability.

Another area where it may be challenging for all heat networks to follow the rules is with regard to aftercare, and ongoing identification and protection against self-disconnection and self-rationing.

These are two fundamentally important components of the protections that were introduced in the gas and electricity market. In the absence of this capacity it would not be fair for a operator to insist on a prepayment meter. It is worth noting that the same provisions of rights of access to do not currently apply to heat network operators and there are some provisions that seem necessary to broaden to ensure that consumers of a network are not disadvantage by the debts of other consumers.

20.Do you agree or disagree with our proposal to explore options to mitigate the impact of unrecoverable debt arising from prohibitions on disconnecting consumers, or installing pre-payment meters, for protected consumers? If yes, please provide any views you may have on approaches for doing so.

Yes, options are required especially where there is significant risk of harm for networks which cannot afford to hold unrecoverable debt on their books.

21.Do you agree or disagree with our self-disconnection proposals?

Yes, we agree that heat networks should be responsible for proactively identifying consumers who are struggling to pay for energy.

25. Do you agree or disagree with our proposed approach to complaint handling?

Yes we agree with the proposed approach to complaint handling.

The authorisation conditions should clarify a common method for advertising complaints processes (such as including that information on heating bills, or having a dedicated webpage for complaints). This will ensure that consumers, and energy advisers know where to look and what to do if a consumer is unhappy with the standards of service.

26. Do you agree or disagree with our proposed compensation levels that broadly align with existing practice in the sector (Heat Trust levels)?

Yes, we support the approach taken by the Heat Trust

29. Do you agree or disagree with our proposed approach to apply Overall Standards of Performance to heat networks operating on a not-for-profit business model?

No we don't agree. We believe that additional costs of compliance may arise which is likely to be passed on by those running a non-profit business model. The balance of these costs vs the benefits of achieving the highest customer standards needs to be considered in a proportionate basis.

Penalties that can only be recovered from the customers of the network concerned is likely to result in higher costs to those very same customers. It isn't easy to reconcile this. Greater consideration needs to be given for the failure of performance even after an improvement plan has been implemented.

Consumers of these networks ought to be compensated for unsatisfactory standards of performance. NEA would like Ofgem and DESNZ to explore how this may be possible.

31. Do you agree or disagree that we should further explore the proposal on unbundling heat from other service charges, noting this may require legislative change to be implemented?

Yes, where rent and heating charges are not separate, in an environment where energy costs are due to remain high until the rest of the decade, being unable to afford energy can have severe consequences including eviction.

It is possible that the relationship is not a direct relationship and that social/private landlords may be the 'customer' of the network and it is their practice that 'bundles' energy with rent. It isn't clear what role Ofgem would have if it chooses to bundle this way. Effectively the household will have no direct relationship with the network provider in the same as others supplied in the gas and electricity markets where there is a 'third party'.

Where households are metered and have direct relationships than unbundling heat

from other charges could also improve transparency over energy costs and increase consumer confidence.

32.Do you have any views on options 1, 2 and 3?

We support the greatest levels of transparency to ensure fair treatment but believe that more needs to be done to explore how this can be best afforded.

33.If we were able to unbundle the heat charge for individual properties, do you agree or disagree with our proposals on limiting back-billing to 12 months?

We believe that there needs to be consistency in how back-billing is applied to heat networks and retail energy suppliers. We agree with the proposal on applying a 12 month back-billing limit. We also recognise that there needs to be the same legal provisions afforded to heat network operators as exist for gas and electricity where equal requirement exists.

40.Do you agree or disagree with the proposals for authorisation conditions on financial responsibility and control over assets? If you disagree, please provide rationale or suggestions for other ways to address the risks.

Yes we agree with the proposed authorisation conditions on financial responsibility and control over assets.

41.Do you agree or disagree with the proposed financial monitoring requirements, including the metrics and the frequency? If you disagree, please provide further details and/or alternative suggestions.

Yes we agree with the proposed financial monitoring requirements.

42.Do you agree or disagree with the structure and contents of the proposed Operations/Supply Continuity Plan? If you disagree, please provide feedback such as additional material you consider should be required or other suggested changes.

Yes we agree with the proposals.

48.Do you agree or disagree with the proposal to introduce a Special Administration Regime, modelled on existing SARs and using bespoke provisions, where appropriate, to ensure it functions in the heat network sector?

Yes we agree with the proposals to introduce a Special Administration Regime (SAR) in order to ensure continuous supply for consumers.

49.Do you agree or disagree with the proposal for the introduction of transfer schemes?

Yes we agree with the proposal for a transfer scheme.

50.Do you agree or disagree with the proposal that heat networks should put in place a funding mechanism to support the regulatory interventions outlined?

Yes we agree with the proposal for a funding mechanism to support SARs and transfer schemes. It is important to ensure continuity of supply for consumers in the event of a

market exit. At this stage, it is not clear which funding mechanism would work in the best interest of consumers, especially those who are supplied by small heat networks.

One approach may be to consider an approach of recouping some funding through gas and electricity bills. While it may not be fair to gas and electricity consumers, it may avoid much greater bill increases being placed on consumers of small and non-profit heat networks.