

BEIS consultation - Heat networks: building a market framework

Response from Energy Saving Trust

1 June 2020

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

Yes, Energy Saving Trust agrees with the inclusion of micro-businesses within consumer protection requirements. This is because, as the consultation document points out, *'similarly to domestic consumers, they lack resources and negotiating power to ensure good service from their operator.'* In addition, the inclusion of micro-businesses would also ensure consistency with the sectors currently covered by the Heat Trust.

Q2. Do you agree that consumer protection requirements should not cover nondomestic consumers (other than micro-businesses)?

No response.

Q3. Do you agree with our proposed approach to defining a heat network, including that it should cover ambient temperature networks but not ground source heat pumps with a shared ground loop? Are there heat network arrangements you think would not be covered by this and which should, or vice versa?

No, Energy Saving Trust does not agree with BEIS' proposed approach to defining a heat network. Our concerns relate specifically to the fact that ground source heat pumps with a shared ground loop would not be covered under the proposed approach to defining a heat network.

While in such cases, as the consultation document points out, individuals connected to the shared ground loop are typically *'billed separately and are able to switch their energy supplier (which avoids being locked into the costs of a centralised heat network scheme'*, they are usually required to sign a long term agreement for maintenance and as such are not able to switch their maintenance provider. We believe this is a significant consumer protection issue – under the current proposals such individuals would be exposed to unnecessary risk. If, for example, there is a loss of service due to system issues and the maintenance supplier fails to fix these or fails to fix these within an acceptable timeframe, the individual would have nowhere to go to seek recourse. We therefore believe it is important that the definition of a heat networks includes ground source heat pumps with a shared ground loop.

We therefore believe that regulations would need to be tailored to these particular systems to cover only the maintenance agreements as householders would not be purchasing heat from the operator. Regulation could ensure, for example, that all standing/supply agreement charges are made public and that there are minimum standards for repairing outages etc.

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, Energy Saving Trust considers Ofgem to be an appropriate body to take on the role of regulator for heat networks. If not Ofgem then a similar national trusted body would be acceptable.

Q5. Do you agree that the proposed regulatory model is appropriate for the regulation of heat networks?

Energy Saving Trust would prefer to see full licencing regime as we believe this would offer greater consumer protection than the proposed regulatory model.

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.

We believe that the operator should be responsible and accountable for regularly compliance. Even in circumstances where the operator has subcontracted out heat supply duties (such as metering and billing) we believe they should still retain overall responsibility.

In situations where the heat supplier has major delegated powers such as in a 'joint venture' type of governance arrangement where responsibility could be shared between two partner entities, we believe there could be a case for joint responsibility.

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, Energy Saving Trust agrees that consumer protection requirements during the operation and maintenance project stage should be regulated. We would ask that there is transparency on pricing to allow benchmarking across the sector.

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.

No, Energy Saving Trust does not believe that there should be a de minimis threshold below which very small domestic schemes are exempted from any of the regulatory requirements proposed in the framework. This is because domestic consumers should receive equal protection no matter how small the schemes they are connected to are.

Rather than exempting very small domestic schemes from regulatory requirements we believe that such schemes should be provided with additional support to enable them to meet the necessary regulatory requirements.

As noted in our response to question 3 above we believe that any regulatory requirements for shared ground loop systems would need to be tailored for these particular systems – covering maintenance agreements only – and as such, for this system type at least, regulatory requirements would not need to be as extensive as for other system types (because only maintenance would be covered by any requirements).

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?

We do not have detailed comments on this question. However, we would like to highlight the importance of ensuring that there is no distinction between small and large schemes in terms of regulation and scrutiny they are subject to.

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

Yes, if the proposed model is adopted, Energy Saving Trust believes that an optional licence should be available for entities seeking rights and powers.

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

We do not have any suggestions for other adjustments that could be made to the proposed model to enable it to work better, but we note the importance of ensuring that the proposed model is as flexible as possible to ensure that it can be adapted in light of changing circumstances.

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

We note that it may take some existing projects time to improve their customer protection procedures and some allowances should be made for this when considering both the circumstances in which transitional arrangements should be introduced and the length of time these should apply for.

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.

No response.

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

Energy Saving Trust agrees that it is vital that enforcement action is proportionate and targeted. We do not believe that not for profit schemes should be treated differently. What is important is that schemes operate to high standards irrespective of who they are run by.

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?

Yes, Energy Saving Trust agrees that imposing fines and removing a licence/authorisation are an entirely appropriate set of enforcement actions for the regulator of the heat network market. We believe however that removing a licence should be an option of last resort – it will be important to work with operators to help them improve their standards wherever possible before resorting to removing a license.

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?

Yes, Energy Saving Trust agrees 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. It is important that entities maintain standards for *all* their projects. If penalties cannot be imposed at the entity level, there is a greater risk to customers than would otherwise be the case.

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?

Energy Saving Trust agrees 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 were operating to a suitable standard.

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, Energy Saving Trust agrees that if compliance issues are more widespread within the group of networks owned or occupied by the same entity, that as a last resort the regulator should be able to revoke the authorisation or licence for the entity as a whole covering its entire group of networks if they do not take suitable steps to improve the badly performing networks.

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, Energy Saving Trust agrees that individual domestic consumers should have access to ombudsman services for redress. We do not have a firm view as to which ombudsman is best placed to provide this function for heat networks.

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, we 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.

Q21. Do you have any examples of approaches we should be considering as we develop the step-in arrangements?

As the UK Government develops the step-in arrangements, we believe it might be worth their while considering the approach taken by the Regulator of Social Housing for England and equivalent bodies in the other countries of the UK in relation to failing/failed housing associations.

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

Yes, Energy Saving Trust agrees that the provision of minimum information would help consumers in making decisions at pre-contractual stages of property transactions.

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, Energy Saving Trust agrees that heat suppliers should be responsible for developing information and guidance for prospective consumers.

The minimum information that should be included should be a customer charter including:

- Information on tariffs and pricing structures (including standing charges)
- Quality of service obligations
- Details of heat supply agreements including potential disconnection procedures/costs
- Complaints procedures

Q26. Do you agree that the regulator should have powers to mandate and enforce price transparency? Can you foresee any unintended consequences of this?

Yes, we agree that the regulator should have powers to mandate and enforce price transparency.

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?

To date there has been no requirement for operators to publish and maintain accurate information on fixed charges, unit rates and tariffs and this is the main reason that information on pricing is not available at present. Operators do not publish pricing due to commercial sensitivities but if all operators are required to publish tariffs the justification for this argument is removed.

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

Yes, we agree that there should be clear, consistent rules on what costs should be recovered through fixed and variable charge.

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?

We agree that the regulator should have powers to undertake investigations on pricing. Operators should be required to justify their pricing structures and if these are deemed to be unfair and excessive then operators could be advised to reduce their pricing. If there is non-compliance, then a loss of licence to operate could be enforced.

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.

Yes, Energy Saving Trust agrees that price regulation in the form of a price cap or regulation of profits should not be implemented at this point in time. We do not believe the market is sufficiently mature to warrant such intervention at the current time.

We agree with conclusion reached in the consultation document that *'as the market expands, the risk of excessive pricing for consumers may change, and, given the monopolistic nature of heat networks, price regulation may be required in the future to protect domestic consumers while ensuring companies are able to make a reasonable return on their investment'* and welcome the proposal that *'should evidence suggest such measures become required'* the Secretary of State of the Department

of Business, Energy and Industrial Strategy should be able to direct the introduction of price regulation through a price cap.

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

We do not currently have any specific thoughts on what might cause price regulation to become an appropriate intervention in the future. However, we would like to highlight here the importance of ensuring that for projects in receipt of government support there must be mechanisms in place to ensure fair pricing against the counterfactual, and the provision of any government support to such projects must be contingent on fair pricing (particularly projects selling heat to householders).

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, we agree that consumers on heat networks should have comparable levels of service and protection as consumers in other regulated utilities. We strongly agree with the following points made in the consultation document:

- *'As consumers on heat networks have long term contracts and cannot readily switch heat supplier as consumers of other energy services can, it is essential to ensure that their rights are protected and that they have recourse to independent arbitration services such as those offered by an ombudsman'.*
- *'Additionally, we expect that specific measures will be required to protect vulnerable consumers on heat networks, for example to ensure that information about their heating is accessible.'*

In this context we would like to reiterate the point we made above that all heat network consumers should have equal levels of service and protection – irrespective of how small (or large) a scheme they are connected to. It will be important to ensure that smaller schemes are provided with adequate support to ensure they are able to provide the necessary levels of customer service and protection.

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?

Yes, Energy Saving Trust agrees that minimum standards should be outcome-based to allow the regulator scope to implement these flexible and proportionately depending on the size and nature of different schemes.

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?

Yes, Energy Saving Trust agrees that all new schemes should be subject to minimum technical standards (once developed), given the potential impact on system performance and end consumers.

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

Given that, as noted in the consultation, technical standards ultimately have an impact on system performance and end consumers we believe that minimum technical standards should be technology

specific and apply universally (i.e. smaller networks should not have different standards to larger networks).

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

Yes, Energy Saving Trust agrees that regulated entities should demonstrate they are compliant through an accredited certification scheme.

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

No response.

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?

We believe that the CIBSE technical standards for heat networks are particularly relevant here. In terms of examples from other markets we believe that the regulatory compliance requirements from the other utilities such as the gas or water industry may also be relevant.

Q39. Do you agree that a (licensed) heat network entity should be classified as a statutory undertaker?

Yes, Energy Saving Trust agrees that a (licensed) heat network entity should be classified as a statutory undertaker.

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?

Yes, Energy Saving trust agrees that the proposed rights and powers should be given to heat network entities which meet the terms of the proposed licensing system.

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.

No, Energy Saving Trust does not believe that it is reasonable to assume that the proposed rights and powers would only be relevant to district heat networks. We believe that, in some cases, communal heating projects might encounter some wayleave issues – particularly larger projects which require separate plant rooms/energy centres. However, this would be very project specific and will depend on, for example, where the energy centre may be located. As such we do not believe it is helpful to have ‘hard and fast’ rules excluding communal networks from the ability to take advantage of the proposed rights and powers.

Q42. What impacts will the proposed rights and powers have on the development and extension of heat networks? And what impacts do you think these rights will have on the operator’s ability to maintain and repair heat networks?

The proposed rights and powers will have a positive impact on the development and extension of heat networks. The introduction of these rights and powers will not only increase confidence in the sector and enable more people to connect, they should also make the process of repairing and maintaining heat networks easier and quicker.

Q43. Do you agree that licensed heat network entities should be granted statutory access rights?

Yes, Energy Saving Trust agrees that licensed heat network entities should be granted statutory access rights. The granting of such rights would help to reduce costs and simplify development of district heating schemes.

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?

Yes, Energy Saving Trust agrees that the process should be similar to that for electricity and gas (and water) companies.

Q45. Do you agree that these access rights would primarily be used to install and maintain pipework, or do you anticipate that they could be used for other purposes?

Energy Saving Trust agrees that these access rights would *primarily* be used to install and maintain pipework. However, we note that some schemes might involve multi utility services (MUSCOS) who may need to install things other than pipes (for example broadband or private wire for electricity supply). It is important that these factors are taken into account when looking at access rights.

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?

Energy Saving Trust agrees with the analysis provided in the consultation document that because '*heat networks provide services of equivalent importance....they warrant similar legal status as other utilities*' and as such we are supportive of BEIS' proposal to use primary legislation for the heat network market to define them as statutory undertakers.

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?

No, Energy Saving Trust does not have any experience of applying for a Section 50 Street Works license.

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?

Energy Saving Trust agrees that, in order to reduce the uncertainty and costs of developing heat networks, heat networks should be given equivalent powers to other utilities to install and keep heat network pipes underneath roadways. We are not aware of any potential unintended consequences as long as there are clear lines of communication between the respective utility companies and that the locations and depth of pipework are clearly indicated.

Q49. Do you agree that licensed heat network developers should have permitted development rights similar to other statutory undertakers? Are you aware of any potential unintended consequences?

Energy Saving Trust agrees that licensed heat network developers should have permitted development rights similar to other statutory undertakers. We are not aware of any potential unintended consequences (with the caveats above).

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), is

there any other development to facilitate the installation and maintenance of heat networks to which a permitted development right should apply?

In addition to the specified permitted development rights we believe that permitted development rights should apply to thermal storage if it is below ground.

Q51. Do you agree that the administrative burdens of being statutory consultees would be disproportionate for heat networks?

No response.

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?

No response.

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?

Yes, Energy Saving Trust believes that licensed heat network developers should be given equivalent rights to cross linear obstacles. Railway lines would require special consideration depending on local circumstances.

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, Energy Saving Trust agrees that consumers should have access to information on the energy performance and percentage of low-carbon generation of their network. We agree it is important that consumers can better understand their own impacts on the environment. However, it is important to bear in mind that heat network consumers have little or no opportunity to change their heating supplier and as such this information will have limited impact in terms of encouraging a move to lower carbon heating options.

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, Energy Saving Trust agrees that regulation is necessary to encourage decarbonisation of heat networks over the period to 2050. We would like to highlight our support for BEIS' intention that '*any regulation of decarbonisation would be interoperable with any equivalent regulations or policies introduced by the governments of Wales, Scotland or Northern Ireland*'.

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?

We believe that regulations should go further than simply obliging owners to assess whether they could feasibly connect to a local heat network. We think that it is unlikely that an enabling approach will be successful. Businesses that generate waste heat are not heat supply businesses and even if they are paid for the residual heat are not likely to prioritise an activity that distracts resource from the main purpose of their business. It is our view that the only way to ensure that a significant

proportion of the waste heat available is supplied to district heating networks is to require that connections between industrial sites and district heat networks (where feasible) are made.

We note however that there will always be uncertainty in relation to the ongoing security of supply from waste/residual heat and as such believe that whilst there should be an obligation to supply (where feasible) there should not be an obligation to provide an uninterruptable supply.

There are a number of barriers in relation to waste heat sources being connected to heat networks including complexities around negotiating contracts between industries and district heating schemes, the need for solutions that fit local circumstances and the fact that, as a result of high up-front costs and long payback periods, installing heat recovery technologies tends to be seen as an energy efficiency requirement that has relatively low importance within corporate priorities.

In addition, in many cases the source of waste heat is often too far away from suitable customers to make it viable for it to be used. We therefore believe that new energy generation or industrial plants with a significant waste heat potential should, so far as possible, be located within a useful distance of potential users of that heat or to be more precise the energy centres supplying the heat.

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?

No response.