

Call for Input Response

Call for Input: The Non-Domestic gas and electricity market

Office of Gas and Electricity Markets (Ofgem).

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About this call for input

Ofgem launched this call for input to seek the views of stakeholders on their experiences of the non-domestic retail energy market. Non-domestic contracts generally cover businesses, but some residential customers are reliant on a commercial supply contract to underpin their energy use. Age UK's below response is focused on this latter group.

Key points and recommendations

- Age UK recommends that financial support and regulatory protections be extended to all residential dwellings, regardless of how residents pay for their energy.
- At least 900,000 residential households in Britain find themselves reliant on a commercial supply contract to underpin their domestic electricity or gas supply.
- This often excludes them from Ofgem's consumer safeguards as well as a range of Government affordability schemes such as the Energy Price Guarantee (EPG).
- Many of the older people at greatest risk in the energy market disproportionately reside in homes which fall into this commercial supply trap.
- This includes many park home and care home residents, as well as heat network users and social housing tenants paying for their energy via collective bills.
- Ofgem and the Government need to work together to end the commercial supply trap by investigating how to extend support to the above housing types and wider residential customers missing out.
- Ofgem must start by jointly releasing a policy statement with the Department for Energy Security and Net Zero (DESNZ) committing themselves to extending the regulator's remit to all residential households.
- We also recommend Ofgem revise its definition of domestic customers so it can better account for households with atypical supply arrangements.
- Ofgem must follow up this call for input with a more systematic review of how to add the diverse range of housing types missing out on their regulatory framework – this must include a consultation on the options as soon as possible.

About Age UK

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances. In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high quality health and care; are comfortable, safe and secure at home; and feel valued and able to participate.

Introduction

We welcome the opportunity to respond to this call for input¹. Age UK recommends that financial support and regulatory protections be extended to all residential dwellings, regardless of how residents pay for their energy². Without taking this action there is a risk of entrenching inequalities within the domestic energy market.

Energy contracts are split into two overarching types: domestic and commercial. Commercial contracts generally supply energy to businesses, while domestic ones are designed for residential households.

Some of the most at risk older consumers fall between the cracks between these two contract types as they rely on a commercial supply contract for their energy or have their energy costs included in their rent or collective bills – meaning that they have no direct contractual relationship with their supplier. We call this issue the ‘commercial supply trap’ and the Department for Energy Security and Net Zero (DESNZ) estimates it affects around 900,000 electricity customers in Britain. Housing types which are disproportionately impacted are park homes, care homes, social housing units, and those deriving their heating from a heat network.

Most of the residential customers stuck in the commercial supply trap find that they lack Ofgem’s consumer protections. This not only leaves them outside of the regulators price cap and consumer safeguards but also makes access to Government affordability schemes, such as the Warm Home Discount (WHD), Energy Bills Support Scheme (EBSS), and Energy Price Guarantee (EPG), much more difficult.

Q16. What additional protections do you think might need to be put in place to protect domestic customers who are supplied via a non-domestic contract? Please provide an explanation or evidence of the areas of harm any new regulation would protect against.

Ofgem must extend its regulatory framework to cover all domestic customers. This will require substantial reform of Ofgem’s licence conditions and the expansion of its remit alongside several legislative changes.

Age UK has reviewed some of the largest consumer groups stuck in the commercial supply trap and determined that there is no ‘one size fits all’ approach to addressing this issue. The regulatory and legislative changes required to protect park home residents will be very different from those aimed at people paying for their energy via collective bills to a landlord (e.g. social housing tenants). We would welcome working directly with Ofgem to design bespoke methods of delivery for the different housing types affected.

With this in mind, our initial recommendation is that Ofgem and DESNZ release a policy statement committing themselves to extending the regulator's remit to all residential households. This should be followed by allocating resources to end the commercial supply trap.

Below, we provide evidence on the impact of the commercial supply trap and background on a few of the affected housing types in which older consumers disproportionately reside. The issues raised and the housing types discussed are by no means an exhaustive list.

Who it affects most:

Park homes (static mobile homes) are more likely to be occupied by those aged 60 or older³. There are 1,832 park home sites in England⁴, comprising an aggregate of 100,400 residential addresses. Park home households face barriers to accessing a range of support (e.g. core groups 1 and 2 of the WHD, the EBSS, compensation during a power outage) because their energy supply is often delivered via a single communal meter point – operated by the site owner and underpinned by a commercial supply contract.

A similar issue impacts communal heat network users. Many of the 14,000 heat networks in Britain⁵ rely on a comparable arrangement, with multiple dwellings having their supply underpinned by a commercial contract. While heat networks are generally responsible for delivering heating instead of electrical power, in some cases heat network users may pay for collective bills which include their electricity. While this puts them at even greater risk, Ofgem is now committed to extending its regulatory framework to include heat networks from 2024⁶. This is a welcome expansion of the regulator's remit and could be used as a model for extending support to wider residential customers.

Many households also pay for their electricity bills through their rent or service charge. Social housing tenants are of particular concern. While older households are more likely to be owner occupiers, older renters are more likely to be in the social housing sector. Age UK analysis⁷ shows that there are around 1.8 million social housing homes in the UK with at least one-person aged 60+ in residence. Around 80,000 of these pay for their energy through their rent⁸ which can make it difficult for them to access support payments (e.g. the EBSS) or interact with the company delivering their supply.

Care home residents are another major consumer group lacking protection from Ofgem and facing barriers to accessing Government support. There are just over 360,000 care home residents in England⁹. Care homes operate as businesses, and residents are in effect consumers in legal terms. Care home residents therefore sit outside of the domestic energy regulatory framework, and pay for their energy through their care home fees. Extra Care facilities, sheltered schemes, and other forms of supported housing may also be commercially supplied and these residents may pay for their energy through their rent or service charges. We are concerned that these groups may see the cost of their housing rise in order to cover the increased energy costs of the care home or housing provider, with neither the provider, or the resident/consumer having access to appropriate Government support nor recourse to a domestic regulatory framework. We are also concerned that increased costs that cannot be recovered from residents could have a significant impact on the care market, potentially threatening provider sustainability in

some cases where care homes are already being impacted by increased food, insurance, and staffing costs. To resolve these issues it may be necessary in some cases to deliver affordability schemes (e.g. the WHD) to providers so they can pass on the savings and reduce the overall cost of care.

Why we want to see change:

With our research¹⁰ showing that around 3 in 10 (29%) older households¹¹ are struggling in fuel stress¹² and over half (54%) of those aged 60+ have been cutting back on heating and powering their homes¹³ it is clear spiralling energy bills have proved hard enough to cope with even for those older people who have benefitted from the price cap, EBSS, and EPG. For residential customers reliant on a commercial supply contract these schemes have proved difficult or even impossible to access, meaning that they have faced even higher bills with far less support.

From January to April 2023 the typical annual energy bill was £2,500 for households benefitting from the EPG, but for those missing out the price was likely closer to £4,279¹⁴. On top of this, the vast majority of properties on a domestic supply contract benefitted from the EBSS – receiving an additional £201 towards the cost of their electricity bill over this three-month period.

Residential customers reliant on commercial supply were either excluded from these schemes, provided with less generous business support, or faced an administrative nightmare trying to access substitutes like the EBSS Alternative Fund¹⁵. They are also often excluded from Ofgem and network operator safeguards (e.g. ability to pay principles and compensation after a power outage). This leaves customers who are stuck in the commercial supply trap generally facing even steeper bills without a regulator to protect them.

What needs to be done:

Ofgem and the Government need to work together to end the commercial supply trap by investigating how to extend support to the above housing types and wider residential customers missing out. Achieving this requires bringing all the above groups and wider residential dwellings under Ofgem's regulatory framework, and ensuring equal access to consumer support like the WHD, EBSS, EPG, and the price cap. This will require bespoke methods of extending support to different housing types.

Success will ensure that existing regulatory safeguards and consumer protections can be fully accessed by all residential households. With Ofgem's regulatory framework already scheduled to extend to heat network users from 2024 there is clear precedent for expansion. Ofgem should adapt best practice from this experience to wider customers stuck in the commercial supply trap.

The regulator should start by jointly releasing a policy statement with DESNZ committing themselves to extending the regulator's remit to all residential households. This will kickstart a process of addressing the commercial supply trap and should be followed by a

consultation as soon as possible. We would welcome working directly with Ofgem throughout this process to ensure it successfully delivers for older people.

Q17. Do you agree with the definition of, and clarifications around, what is a domestic customer as described in Appendix A? Are there other areas where further clarification is required?

We recommend Ofgem revise its definition of domestic customers so it can better account for households with atypical supply arrangements such as park homes, care homes, social housing units, heat network users, and others (e.g. almshouses).

Ofgem's definition means that a location must meet four criteria to be considered eligible for domestic energy supply arrangements¹⁶. In sum: gas or electricity must be supplied to a single meter point, it must be wholly or mainly for domestic use and not for resale, the owners or tenants must have legal control of the premises for the purposes of interacting with the supplier, and the agreement must not be commercial in nature (i.e. businesses providing goods or services in exchange for payment).

We disagree with this definition because we know from experience that it excludes the residential properties listed in response to question 16 and many more (e.g. almshouses). The regulator should use a definition which focuses less on the contractual arrangements of the property and more on the circumstances of the people living there. It must start from the premise that a property or location designed to provide residential accommodation is defined as a domestic energy customer unless a clear exemption applies (e.g. hotels).

If Ofgem chooses to stick with its existing definition, then there are several things to consider reforming in order to ensure that the regulator's approach is more able to incorporate residential properties reliant on a commercial supply contract.

Firstly, flexibility should be incorporated into Ofgem's definition to ensure all residential customers can be included. A good example of the need for flexibility is the requirement that a single meter point is used for the premises. Some park home sites have a single meter point for the whole site, but individual residents may have access to a separate electricity meter. This would mean that the single park home site has multiple overlapping meter points despite being a residential location. Aside from making this and wider requirements more flexible, it is important that if this remains a key eligibility criterion then every residential property must be offered the opportunity to have a single meter installed for their supply and be assigned a meter point administration number (MPAN) free of charge.

Secondly, Ofgem needs to remove the clause which prohibits domestic status being conferred onto a property when the supply relationship includes energy resale via a third-

party. Residents of many of the housing types listed previously do not have their own meter point and must therefore buy their energy from the landlord or site owner via one of these third-party resale arrangements. Rather than focusing on this resale element as a proxy for determining if a location is a business, the key part of this clause should be whether the energy is wholly or mainly for residential use. If it is, then the location should be considered domestic regardless of whether residents are buying their energy direct from a supplier or via a third party.

Ofgem also need to clarify what is meant by criteria 3 which states: “the owners and/or tenants of the relevant premises have direct control over the entity that enters into a contract with the licensee for the supply of gas or electricity”¹⁷. Clarification regarding what ‘direct control’ and ‘the entity’ mean is important here to avoid misinterpretation. For example, we would consider a park home resident to be a tenant of a park site but they do not have direct control over the wider ‘entity’ (or site) beyond their own park home. Without clarification this could exclude them from domestic status.

¹ Ofgem, 2023. Call for input on the Non-Domestic gas and electricity market. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/call-input-non-domestic-gas-and-electricity-market>. [Accessed 28/03/23].

² Age UK, 2023. Keeping the lights on: The case for an energy social tariff Discounted bills so older people can keep warm and well at home. Age UK. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/safe-at-home/age-uk-energy-public-policy-report-march-2023.pdf>. [Accessed 27/03/23]. Pgs37-38.

³ HCL, 2019. Research Briefing: Mobile Park Homes. House of Commons Library. [Online]. Available at: <https://commonslibrary.parliament.uk/research-briefings/sn01080/>. [Accessed 22/04/22].

⁴ DLUHC, 2022. The impact of a change in the maximum park home sale commission. Department for Levelling up Communities and Local Government. [Online]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083506/Park_Homes_Research_Report.pdf. [Accessed 07/01/22].

⁵ BEIS, 2021. UK government announces major expansion of heat networks in latest step to power homes with green energy. Department for Business, Energy, and Industrial Strategy. [Online]. Available at: <https://www.gov.uk/government/news/uk-government-announces-major-expansion-of-heat-networks-in-latest-step-to-power-homes-with-green-energy>. [Accessed 16/10/22].

⁶ Ofgem, 2023. Ofgem appointment as Heat Networks Regulator for Great Britain. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/energy-policy-and-regulation/policy-and-regulatory-programmes/heat-networks>. [Accessed 28/03/23].

⁷ Age UK, 2022. Age UK analysis of Living Costs & Food Survey 2019-20.

⁸ Age UK, 2022. Age UK analysis of Living Costs & Food Survey 2019-20.

⁹ ONS, 2022. Care homes and estimating the self-funding population, England: 2021 to 2022. Office for National Statistics. [Online]. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/socialcare/articles/carehomesandestimatingtheselffundingpopulationengland/2021to2022>. [Accessed 10/10/22].

¹⁰ Age UK, 2022. Research briefing: Estimating the impact of the Energy Price Guarantee (October 2022) on older households in England. Age UK. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/safe-at-home/estimating-the-impact-of-the-energy-price-guarantee-epg-on-older-households-in-england-september-2022.pdf>. [Accessed 28/03/23].

¹¹ Defined as a household where the oldest resident is aged 60+ (these figures are for England only).

¹² We define households experiencing fuel stress as households spending more than 10% of their after-tax income on energy costs, so as to maintain an adequate standard of

warmth. This definition was used to calculate the fuel poverty statistics in England from 2001 to 2011, and continues to be the definition used in Wales, Scotland, and Northern Ireland to calculate their respective fuel poverty statistics.

¹³ Age UK, 2023. Keeping the lights on: The case for an energy social tariff Discounted bills so older people can keep warm and well at home. Age UK. [Online]. Available at:

<https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/safe-at-home/age-uk-energy-public-policy-report-march-2023.pdf>. [Accessed 27/03/23]. Pg13.

¹⁴ This higher figure represents the annualised underlying cost of energy for the typical domestic consumer over this period. The true amount non-domestic customers pay may be higher or lower than this figure based on when their commercial supply contract was agreed and the specific terms included. This figure was acquired from: Ofgem, 2022. Latest energy price cap announced by Ofgem. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/latest-energy-price-cap-announced-ofgem>. [Accessed 27/03/23].

¹⁵ DESNZ, 2023. Apply for energy bill support if you do not get it automatically. Department for Energy Security and Net Zero. [Online]. Available at: <https://www.gov.uk/apply-energy-bill-support-if-not-automatic>. [Accessed 27/03/23].

¹⁶ Ofgem, 2023. Call for input on the Non-Domestic gas and electricity market. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/call-input-non-domestic-gas-and-electricity-market>. [Accessed 28/03/23]. Pg21.

¹⁷ Ofgem, 2023. Call for input on the Non-Domestic gas and electricity market. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/call-input-non-domestic-gas-and-electricity-market>. [Accessed 28/03/23]. Pg21.