

# Call for Evidence Response

## Domestic consumers with non-domestic energy contracts: A call for evidence

Department for Energy Security and Net Zero (DESNZ)

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## **About this call for evidence**

The Department for Energy Security and Net Zero (DESNZ) launched this evidence call to improve its understanding of domestic consumers receiving their energy via a non-domestic contract, sometimes referred to as ‘atypical supply’ customers. These contracts generally cover commercial businesses, but some residential properties also receive their energy supply via commercial contracts (e.g. park homes, care homes, and houseboats). Thousands of older people find themselves in this position – relying on a non-domestic contract for their energy or paying for it via a commercial intermediary (e.g. to a landlord or site owner through collective bills). This means that despite being residential households they generally have no direct connection with their supplier, miss out on many of Ofgem’s consumer safeguards, and face barriers to accessing affordability and energy efficiency schemes. We refer to this as the ‘commercial supply trap’. In response to this call for evidence we compiled additional information on its scale and impact.

## **Key points and evidence**

- Our research shows there are at least 883,000 UK households on non-domestic energy contracts – frequently with higher rates of residency for older people.
- In England roughly 3% of all residential households find themselves on non-domestic energy contracts, with significant variation between local authorities.
- These households generally miss out on the affordability, energy efficiency, and consumer protections typical domestic customers benefit from.
- Energy suppliers have submitted evidence to Ofgem that non-domestic supply contracts could become increasingly common.
- Age UK recommends that financial support and regulatory protections be extended to all residential dwellings, regardless of how residents pay for their energy.
- DESNZ, Ofgem, and DLUHC need to work more closely to establish the joint working and legislative changes required to end the commercial supply trap.

## **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

Age UK has been very active in the non-domestic supply space because the households affected are disproportionately the residences of older people – including care homes, park homes, and social housing units. We have responded to Ofgem’s call for evidence<sup>1</sup>, as well as their recent follow up consultation<sup>2</sup>, and overviewed the issues in our recent ‘Keeping the Lights on’ report<sup>3</sup>. We also conducted research<sup>4</sup> to demonstrate the gaps in access to the Energy Bills Support Scheme Alternative Fund – a scheme designed to deliver a £400 energy rebate to non-domestic supply households.

We continue to believe that financial support and regulatory protections should be extended to all residential dwellings, regardless of how residents pay for their energy<sup>5</sup>. Without taking this action there is a risk of entrenching inequalities within the energy market.

The commercial supply trap<sup>6</sup> – affecting residential customers paying their energy bills via a commercial intermediary or reliant on a commercial supply contract to underpin their supply – impacts at least an estimated 883,000 UK households<sup>7</sup>. Housing types which are heavily impacted include park homes, houseboats, care homes, farmhouses, and social housing units.

While the energy market regulator, Ofgem, has taken positive steps to determine the best ways of supporting these households it is now clear that without Government intervention, joined up working across Government departments, and legislative changes, the regulator will be limited in terms of its ability to unilaterally address the commercial supply trap. We therefore strongly support the Government’s information gathering efforts through this call for evidence<sup>8</sup> and would welcome further dialogue as DESNZ progresses this work.

## Our evidence

Given the lack of data on the commercial supply trap we wanted to update the figures we collated in a recent response to Ofgem<sup>9</sup>. Age UK recently received new data via a Freedom of Information Request (FOI) to DESNZ. The data, while not exhaustive, shows that there are at least an estimated 883,000 UK households in the commercial supply trap<sup>10</sup> – relying on non-domestic supply arrangements. Our estimates show that around 3% of English households find themselves in this position<sup>11</sup> but the true figure is likely to be higher as these figures also exclude certain housing types in the commercial supply trap (e.g. non-self-funded care home residents). We have provided updated UK figures by housing type in table 1 and a heat map of local authorities in Britain by the number of

households on non-domestic contracts in figure 1. For the purposes of DESNZ’s remit around 30,000 of the households in table 1 are in Northern Ireland<sup>12</sup>.

Table 1: UK households in the commercial supply trap (atypical supply)

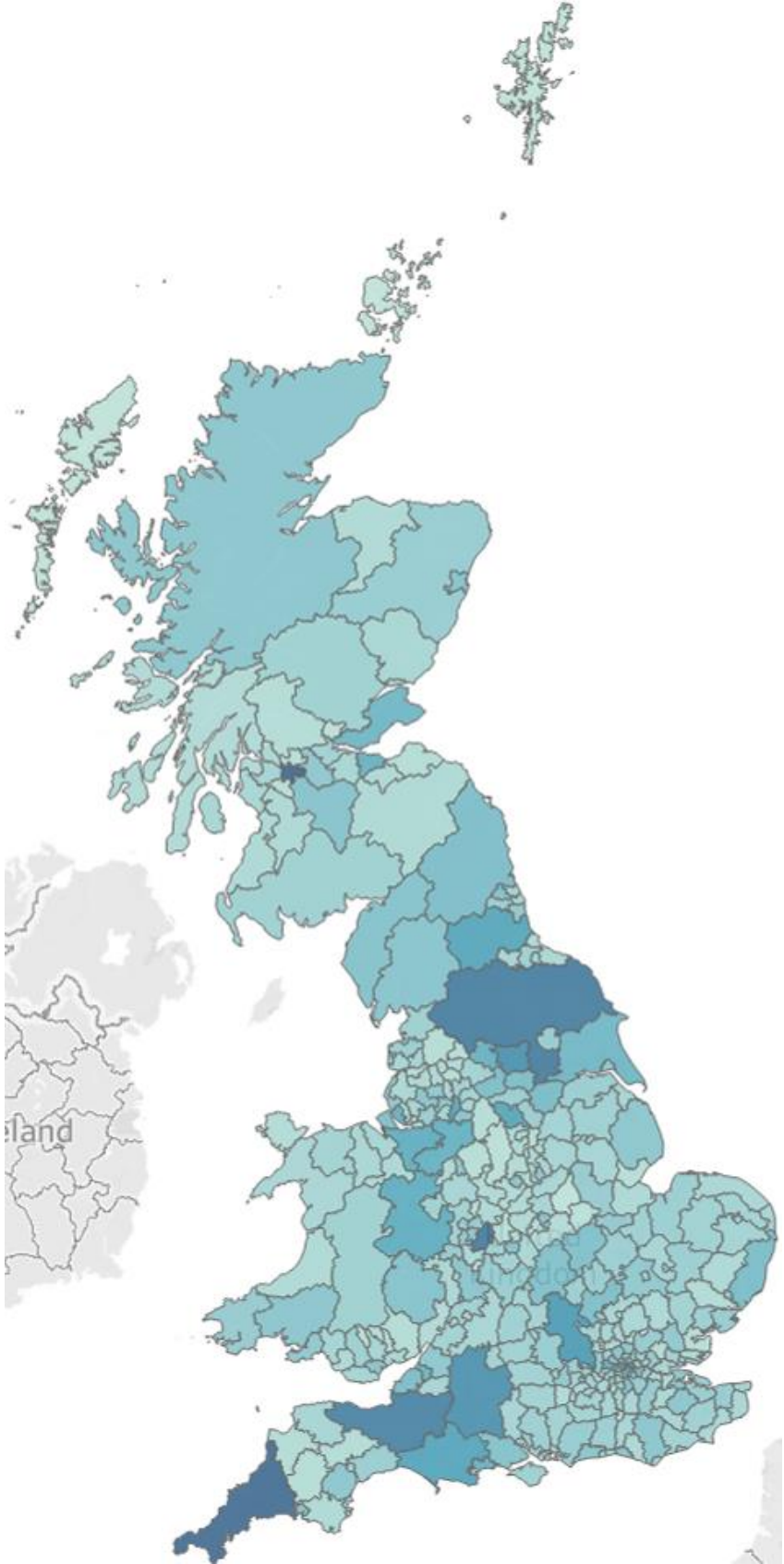
Housing type	Number of households
Caravans, houseboats, mobile homes	128,000
Travellers	25,000
Private tenants on commercial meter	160,000
Social tenants on commercial meter	151,000
Heat network consumers	31,000
Homes off grid	2,000
Self-funded care home residents	306,000
Farmhouses	80,000

Source<sup>13</sup>: Age UK FOI to DESNZ. Note: These figures are best estimates and likely undercount the true figure as they do not include certain housing types (e.g. non-self-funded care home residents).

The figures were used<sup>14</sup> to compile an [interactive map](#)<sup>15</sup> of figure 1. The map allows users to review the local authorities with the highest and lowest numbers of residential households reliant on non-domestic contracts. The authorities with the lowest overall numbers of non-domestic residential dwellings (500 or less) were the City of London, Melton, Harlow, Clackmannanshire, and the islands of Orkney, Shetland, and Na h-Eileanan Siarand. The highest (9,000 or more) were Somerset, North Yorkshire, Birmingham, Cornwall, and Glasgow City. We also used 2021 Census data for England and Wales<sup>16</sup> to assess which local authorities had the highest and lowest proportions of non-domestic residential households. You can find an interactive map of these findings [here](#)<sup>17</sup>. Castle Point in the East of England had the highest overall proportion (7%) while Harlow had the lowest (1.3%).

In recent years these households have generally faced higher prices for their energy than domestic residents. While most domestic households are protected by Ofgem’s price cap and benefitted from the Energy Price Guarantee (EPG) and the Energy Bills Support Scheme (EBSS) over last winter this was not the case for most non-domestic households who have generally lacked equivalent support. Non-domestic households also remain outside of the vast majority of Ofgem’s consumer protections. There is no non-domestic equivalent of the Priority Services Register (PSR) for residential customers relying on non-domestic energy contracts. Atypical supply households also generally remain unable to shop around for cheaper tariffs and we are concerned their intermediary has little motivation to do this on their behalf. This keeps many of them effectively locked out of the energy market, unable to meaningfully engage.

Fig 1: Households in the commercial supply trap (atypical supply) by local authority (GB)



Source<sup>18</sup>: Age UK FOI to DESNZ. Note: See data limitations in appendix<sup>19</sup>.

This is by no means a niche issue. With at least 883,000 UK households in the commercial supply trap<sup>20</sup>, our estimates show that around 3% of all English households find themselves in this situation<sup>21</sup>. Evidence submitted to Ofgem from multiple suppliers also indicates that commercial supply contracts for residential customers will be increasingly common because of the innovation required to achieve net zero<sup>22</sup>. We are very concerned that the proportion of households sitting outside of the regulator's safeguards will grow – cutting support to vulnerable older consumers, diluting the regulatory framework, and reducing market engagement.

In terms of what existing protections are in place, to date, Ofgem has relied heavily on Maximum Resale Price (MRP) legislation, via section 37 of the Gas Act 1986 and section 44 of the Electricity Act 1989, to ensure energy resellers, or intermediaries, are selling energy to atypical supply households at cost<sup>23</sup>. In principle this means a landlord, park site owner, or other intermediary is forbidden from making a profit on the energy they sell on to residential households. However, MRP is limited by numerous factors. It often does not apply for consumers paying for energy via inclusive bills (e.g. energy costs included in rental payments), billing practices frequently lack transparency, and there are very limited repercussions for non-compliance<sup>24</sup> requiring customers to take intermediaries to tribunal.

Ofgem has taken the welcome step of proposing reforms to the MRP redress process<sup>25</sup> and we are keen to feed into this<sup>26</sup>. The regulator also worked proactively with the Department for Levelling Up, Housing, and Communities (DLUHC) to propose extending the Private Rented Sector Ombudsman Service (PRSOS) to many atypical supply households. While Age UK recommends that longer term reforms should fully extend financial support and regulatory protections to all residential dwellings, regardless of how residents pay for their energy, these sorts of short-term solutions could bring some much-needed immediate relief.

We think more could nonetheless still be done. In the short-term, we recommend a non-domestic Priority Services Register be implemented alongside equal support for atypical supply households during a network outage. The Government should also consider increasing funding for bespoke affordability and energy efficiency schemes (e.g. providing additional funding to the park homes Warm Home Discount scheme). Extending the Energy Ombudsman complaints procedure to non-domestic residential households would also be of benefit.

Longer term reforms will likely require bespoke solutions for different housing types (e.g. reforms to the Mobile Homes Act 2013 to better protect park home residents). These reforms will require joined up working between multiple agencies, including Ofgem, DESNZ, and DLUHC to establish the legislative, regulatory, and guidance changes

required to end the commercial supply trap. We are hopeful that this call for evidence is the first step in securing this joined up working and longer-term reform.

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<sup>1</sup> Age UK, 2023. Call for Input: The Non-Domestic gas and electricity market. Age UK. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/age-uk-call-for-input-response-to-ofgem-march-2023.pdf>. [Accessed 15/08/23].

<sup>2</sup> Age UK, 2023. Consultation Response: Non-domestic market review. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/age-uk-response-to-ofgem-non-domestic-energy-market-consultation.pdf>. [Accessed 30/08/23].

<sup>3</sup> 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.

<sup>4</sup> Age UK, 2023. 4 in 5 of all those eligible for the Energy Bills Support Scheme Alternative Fund missing out. Age UK. [Online]. Available at: <https://www.ageuk.org.uk/latest-press/articles/2023/4-in-5-of-all-those-eligible-for-the-energy-bills-support-scheme-alternative-fund-missing-out/>. [Accessed 31/08/23].

<sup>5</sup> 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.

<sup>6</sup> See our 'about this call for evidence' section or page 3 of our Ofgem call for information response for a full definition: Age UK, 2023. Call for Input: The Non-Domestic gas and electricity market. Age UK. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/age-uk-call-for-input-response-to-ofgem-march-2023.pdf>. [Accessed 15/08/23]. Pg3.

<sup>7</sup> Age UK FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund. In response to our FOI DESNZ indicated that these figures are their best working estimates on the number of eligible households for this scheme so should be interpreted with caution. We are using EBSS Alternative Fund eligibility as a proxy for the number of UK households in the commercial supply trap because the Fund was designed to support these households.

<sup>8</sup> DESNZ, 2023. Domestic consumers with non-domestic energy contracts. Department for Energy Security and Net Zero. [Online]. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1173132/domestic-consumers-on-non-domestic-energy-contracts-call-for-evidence.pdf#:~:text=Domestic%20consumers%20with%20domestic%20energy%20supply%20contracts%20have,contracts%20have%20had%20a%20different%20level%20of%20protection.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1173132/domestic-consumers-on-non-domestic-energy-contracts-call-for-evidence.pdf#:~:text=Domestic%20consumers%20with%20domestic%20energy%20supply%20contracts%20have,contracts%20have%20had%20a%20different%20level%20of%20protection.) [Accessed 17/08/23].

<sup>9</sup> Age UK, 2023. Call for Input: The Non-Domestic gas and electricity market. Age UK. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/age-uk-call-for-input-response-to-ofgem-march-2023.pdf>. [Accessed 15/08/23].

<sup>10</sup> Age UK FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund. In response to our FOI DESNZ indicated that these figures are their best working estimates on the number of eligible households for this scheme so should be interpreted with caution. We are using EBSS Alternative Fund eligibility as a proxy for the number of UK households in the commercial supply trap because the Fund was designed to support these households.

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<sup>11</sup> Age UK analysis of FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund combined with DESNZ & DBIS data on the number of households in England (fuel poverty dataset, 2022).

<sup>12</sup> It should be noted that farm properties and homes fully off the grid were removed from the overall regional figures – this may therefore impact the Northern Ireland figures. To give a sense of the scale, farm properties and homes fully off the grid represented around 9% of the total number of UK households on atypical supply. The original figure for NI was 28,000 but we rounded this up to 30,000 to better reflect this gap in the data.

<sup>13</sup> Age UK FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund. In response to our FOI DESNZ indicated that these figures are their best working estimates on the number of eligible households for this scheme so should be interpreted with caution. We are using EBSS Alternative Fund eligibility as a proxy for the number of UK households in the commercial supply trap because the Fund was designed to support these households. But it likely undercounts the number of affected households (e.g. these figures do not include non-self-funded care home residents).

<sup>14</sup> Age UK FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund. In response to our FOI DESNZ indicated that these figures are their best working estimates on the number of eligible households for this scheme so should be interpreted with caution. We are using EBSS Alternative Fund eligibility as a proxy for the number of UK households in the commercial supply trap because the Fund was designed to support these households. It should be noted that 82,000 UK households (80,000 farm properties, and 2,000 off the grid) were removed from the local authority figures – this may therefore impact these figures. These figures also likely undercount the number of households in the commercial supply trap (e.g. these figures do not include non-self-funded care home residents).

<sup>15</sup> Available here: [https://public.tableau.com/views/Atypicalenergysupplyhouseholdsnon-domesticbyGBlocalauthority/Sheet1?:language=en-GB&publish=yes&:display\\_count=n&:origin=viz\\_share\\_link](https://public.tableau.com/views/Atypicalenergysupplyhouseholdsnon-domesticbyGBlocalauthority/Sheet1?:language=en-GB&publish=yes&:display_count=n&:origin=viz_share_link)

<sup>16</sup> The most recent Scottish Census data was not available at the time of publication so we were unable to provide similar figures for Scotland at this stage.

<sup>17</sup> Available here: [https://public.tableau.com/shared/D7SN955J5?:display\\_count=n&:origin=viz\\_share\\_link](https://public.tableau.com/shared/D7SN955J5?:display_count=n&:origin=viz_share_link)

<sup>18</sup> Age UK FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund. In response to our FOI DESNZ indicated that these figures are their best working estimates on the number of eligible households for this scheme so should be interpreted with caution. We are using EBSS Alternative Fund eligibility as a proxy for the number of UK households in the commercial supply trap because the Fund was designed to support these households. But it likely undercounts the number of affected households (e.g. these figures do not include non-self-funded care home residents).

<sup>19</sup> Note: These figures are best estimates and likely undercount the true figure as they do not include certain housing types (e.g. non-self-funded care home residents). Local authority figures have greater uncertainty and 80,000 farm properties, and 2,000 off grid homes were removed from the local authority figures due to data limitations. Due to these issues and rounding errors the totals by local authority do not sum to the overall figures. Local authority data for Northern Ireland was unavailable although we can provide overall figures for Northern Ireland upon request. The Isles of Scilly were not included due to issues with the estimates for this local authority.

<sup>20</sup> Age UK FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund. In response to our FOI DESNZ indicated that these figures are their best working estimates on the number of eligible households for this scheme so should be interpreted with caution. We are using EBSS Alternative Fund eligibility as a proxy for the number of UK households in the commercial supply trap because the Fund was designed to support these households.

<sup>21</sup> Age UK analysis of FOI request to DESNZ (summer 2023) on the numbers of households eligible for the EBSS Alternative Fund combined with DESNZ & DBIS data on the number of households in England (fuel poverty dataset, 2022).

<sup>22</sup> Ofgem, 2023. Non-domestic market review: Findings and Policy consultation. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>. [Accessed 15/08/23]. Pg61.

<sup>23</sup> Ofgem, 2014. Maximum Resale Price Direction. Ofgem. [Online]. Available at: [https://www.ofgem.gov.uk/sites/default/files/docs/2014/03/mrp\\_direction.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2014/03/mrp_direction.pdf). [Accessed 16/08/23].

<sup>24</sup> See page 65: Ofgem, 2023. Non-domestic market review: Findings and Policy consultation. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>. [Accessed 15/08/23]. Pg65.



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<sup>25</sup> See: Ofgem, 2023. Non-domestic market review: Findings and Policy consultation. Ofgem. [Online]. Available at: <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>. [Accessed 15/08/23].

<sup>26</sup> See: Age UK, 2023. Consultation Response: Non-domestic market review. [Online]. Available at: <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/age-uk-response-to-ofgem-non-domestic-energy-market-consultation.pdf>. [Accessed 30/08/23].