

Heat Networks: Building a Market Framework Department for the Economy Response

February 2022

1. General Information

This document sets out the Department for the Economy's (DfE) response to the Heat Networks: Building A Market Framework consultation, which was published on 12 January 2022 and closed on 13 February 2022. It provides a summary of responses to the consultation and a brief overview of our policy proposals in each area of the market framework.

DfE received 20 responses to the consultation. A range of stakeholders provided their views, with respondents from across a wide spectrum of interests, including energy representatives, trade associations, consumer representatives and housing providers. Of these 17 expressed broad support for the proposals with the remaining three commenting more generally on issues which need to be taken into account as further policy development takes place. The list of respondents is included at Annex A.

Contact details:

For questions related to policy decisions or this document please contact:

DfEHeatPolicy@economy-ni.gov.uk

Introduction

Heat networks are an important aspect of the path towards decarbonising heat and reducing our greenhouse gas emissions. In the right circumstances, they can reduce bills, support local regeneration and can be a cost effective way of reducing carbon emissions from heating.

The Department for the Economy (DfE) is proposing to establish a regulatory framework for heat networks which protects consumers, promotes technical standards, and drives forward the growth and decarbonisation of the heat networks market.

There are currently around 100 heat networks in the Northern Ireland, providing heating and hot water to approximately 1000 consumers. Heat networks deliver heating, hot water, and/or cooling from a central source or sources to domestic dwellings, public sector buildings, shops, offices, sport facilities, hospitals, and universities. They afford a unique opportunity to unlock otherwise inaccessible larger scale renewable and recovered heat sources such as waste heat, heat from rivers, and geothermal energy.

There is significant potential for the number and scale of heat networks to increase in Northern Ireland and there is a need to ensure that any growth in the sector takes place in a proportionate regulatory framework with appropriate checks and balances that ensure that consumers are protected and new investment in the sector is supported.

DfE is seeking to make sure that the market is supported by minimum regulations on consumer protections, technical standards, and (potentially in the future) regulatory requirements on decarbonisation. As set out in the Heat Networks: Building A Market Framework consultation, there are currently no sector specific protections for heat network consumers, unlike for consumers of other utilities such as gas, electricity, and water.

DfE will be working with the Northern Ireland Authority for Utility Regulation (UR) to develop their role as heat networks regulator. The exception to this is the Heat Network Metering and Billing Regulations which provide some limited requirements regarding metering and billing arrangements and which will remain within the remit of the Office for Product Safety and Standards. The majority of responses were supportive of this choice of regulators.

Given the importance of ensuring that heat networks consumers are afforded the same consumer protections as users of gas and electricity DfE intends to appoint the Consumer Council as the consumer advocacy body for heat networks in Northern Ireland.

Spreading the cost of regulation across gas, electricity and heat network operators is intended to bring the cost per consumer of regulation down to an affordable level and down to a similar level to what gas and electricity consumers pay for regulation.

Summary of Comments and Department for the Economy Response

Overview

DfE received 20 substantive responses to the consultation on a Heat Network Market Framework, 17 of which were broadly supportive of the introduction of a heat network market framework. Three other respondents provided useful information in relation to the development of a heat network market framework. Responses were received from a wide range of stakeholders. A number of respondents highlighted the wide range of decarbonised heat technologies that could be used in heat networks and DfE will consider this feedback as it develops wider decarbonised heat policy.

Feedback in relation to heat networks and the proposed market framework is summarised below.

NIAUR as regulator

Consultation proposal

DfE proposed to appoint the Utility Regulator (UR) as the regulatory body, for Northern Ireland and to give UR the powers to set and enforce regulatory requirements and guidance in relation to the distribution and supply of heating and/or cooling through networks.

Responsibilities would include setting rules and guidance relating to:

- Provision of information (including contracts and billing), to improve transparency
- Pricing
- Quality of service.

The regulator would also be responsible for monitoring compliance with any regulatory requirements within their powers and taking enforcement action.

All the responses which provided substantive comments on the proposed heat networks market framework agreed that the Utility Regulator (UR) is the appropriate body to undertake the regulatory role particularly because it has the requisite experience as an enforcement agency in the electricity and gas sectors.

A number of respondents recognised the importance of not overburdening the consumer with undue costs suggesting that it will be essential that the appointed regulator is provided the resources and time required to establish a robust, future-proofed regulatory regime to ensure consumer interests are protected.

Department's response

DfE agrees that the Utility Regulator is the most suitable body to undertake the regulatory role for the heat network market framework. Their expertise with gas

Department's response

and electricity regulation will be vital in delivering a robust regime for heat networks and will mean that as consistent approach as possible can be applied across heat networks, gas and electricity.

Authorisation Approach

Consultation proposal

DfE consulted on a number of options in relation to the regulatory regime, including a preferred option of a general authorisation regime. Primarily this is because placing a duty on networks to notify the regulator of their operation is inherently lighter touch than having to apply for, then be checked and considered suitable for a licence. Authorisation also means there is no need to update or amend individual licences if new innovations or requirements are introduced.

DfE did not consider that adopting a general authorisation approach would negatively affect outcomes for consumers, compared to adopting a licensing system.

The majority of respondents agreed that the authorisation, with optional licence for rights and powers, approach was the most proportionate means of providing a sound regulatory framework without creating an undue burden on heat network providers.

However, some respondents including the Consumer Council indicated that this must not come at the expense of consumer protection.

A number of respondents indicated that DfE should ensure that consumer protection regulations should apply to all heat networks regardless of size or function as consumer rights should not be dependent on the nature of the supplier over which the heat network customer has no choice.

However, two respondents indicated that they would prefer a model whereby heat networks must apply for a licence to become statutory undertakers, and to see a full licencing regime for all heat networks. They considered that this would offer greater consumer protection than the Authorisation model proposed.

Department's response

DfE agrees that requirements relating to the direct consumer experience such as pricing, quality of service and transparency should be part of the regulatory requirement placed on all schemes where domestic consumers are served. This is one of the main objectives of the regulatory regime and DfE is committed to ensure that robust protections are in place.

Whilst it is recognised that a licensing regime may be more robust, the introduction of any regulatory framework must strike a proportionate balance between

Department's response

improved consumer protection and potential administrative burdens, and the fair apportionment of regulatory cost between the industry and society. Therefore, DfE intends to proceed with the introduction of an authorisation regime for heat networks with an option to apply for a licence for rights

Consumer protections

Consultation proposal

The Department wants heat network consumers to be well informed about their heating and cooling, receiving good quality service at a fair price and have ready access to redress should things go wrong. In the typical comparator markets of oil, gas and electricity supply, consumers are in-part protected by their ability to switch suppliers.

The Department proposed giving the chosen regulator equivalent enforcement powers in this new role as it currently has in the electricity and gas markets. DfE wants to ensure that the regulator is able to apply powers to investigate and take robust action. DfE proposed giving the regulator the powers to levy fines against companies for failure to meet regulatory requirements. Any regulatory fines would be proportionate to the specific circumstances and only imposed once non-financial measures had been tried. However, DfE recognised that, where the regulated entity is operating on a not for profit basis, the option of financial penalties would be less appropriate. The Department was considering whether there would need to be a different enforcement approach in relation to such schemes.

Transparency

Heat Network operators would be required to Publish clear and understandable pricing information in an easy to access manner would certainly help consumers understand better their future ongoing heating costs.

DfE proposed that there should be regulations in place relating to transparency and billing, to adequately protect consumers.

Pricing

DfE proposed that the regulator should have powers to mandate and enforce suppliers to publicly disclose their fixed charges, tariffs and unit rates and provide clear explanations about how prices are set for consumers. The regulator should also have powers to investigate networks where prices for domestic consumers appear to be disproportionate compared with systems with similar characteristics, or if prices were significantly higher than those consumers would expect to pay if they were served by an alternative heating system. This measure would allow the regulator to intervene in situations where there are systematic issues on pricing.

Price Regulation

DfE proposed to take powers to be able to direct the introduction of price regulation, should evidence suggest such measures are required. It is anticipated

Consultation proposal

that this would be subject to further consultation on the specifics before any such measure would be introduced.

Service Standards

DfE proposed to give the regulator powers to set outcome based quality of service standards in order to improve consumer protections. It is envisaged that this type of approach would allow flexibility both in terms of implementation and enforcement, depending on the nature and size of heat networks, and draw on service standards such as those developed by Heat Trust.

Technical standards

DfE proposed that heat networks should demonstrate compliance with technical standards

The majority of respondents agreed that consumer protection and confidence building is critical to developing the heat network market. However, they indicated that the degree of regulation should be proportional to the scale of the project.

The majority of the respondents supported the regulation of the heat network sector highlighting that all heat network consumers deserve the same protections as gas and electricity consumers currently have, including price regulation and the use of penalties by the regulator. However, a number, considered it was important that penalties were proportionate to the regulated entity's size so as not to disproportionately impact smaller heat network operators.

The Consumer Council expressed concern that relying on complaints from consumers would place the burden of both identifying a problem and making a complaint on the consumer and welcomed that DfE is considering whether to extend its role in consumer advocacy to heat, similar to those that exist for other energy consumers.

Respondents supported DfE's proposal that regulated companies in the heat networks sector should be required to provide pre-contractual transparency for consumers and indicated that they would welcome participation in the decision-making of the regulator, when appointed, regarding the minimum information that should be provided to consumers.

Transparency

All respondents who commented in relation to transparency supported DfE's proposal that there should be regulations in place relating to transparency, including in billing and back-billing, prescribed billing information and frequency, indicating that these elements will be important to ensuring adequate consumer protection.

Respondents also indicated that consumers should be provided with a minimum level of information and guidance on heat networks at the pre-contractual stages of property transactions (sale or letting). Heat suppliers should be responsible for developing the information and guidance for prospective consumers and the

developer or landlord, should then be responsible for ensuring consumers receive the information and guidance.

Pricing

All respondents who commented specifically on pricing welcomed DfE's proposal to provide the regulator with specific powers to protect consumers from excessive pricing and monopoly power. Indicating that this is essential in the case of the heat networks market where heat generation, distribution and in many cases supply, may be undertaken by a monopoly provider.

One respondent indicated that DfE should further consider the definition of 'back billing' to take account of the billing regime adopted by social housing associations to ensure that their finance process is not considered to be non-compliant.

Mandatory price transparency

All respondents who commented on DfE's proposal to give the regulator powers to require suppliers to publicly disclose their fixed charges, tariffs and unit rates and provide clear explanations about how prices are set for consumers.

One respondent suggested that a clear calculation method relating to pricing should be defined in regulation. Such a calculation method should form the basis what is considered to be a complaint heat network with the use of regulated thresholds depending on the 'type' of heat network, i.e. a private or supported housing network.

One respondent, from the social housing sector considered that this may not be appropriate for social housing associations which operate as charities and heat is provided to tenants without a profit margin, and did not support providing information to the regulator on an annual basis but rather proposed providing their tenants with the information as part of their annual service charges. However, they also indicated that in the case of private heat network operators, the requirement to publicly disclose fixed charges, tariffs and units rates and provide clear explanation about how prices are set for consumers would support consumer confidence and awareness, ultimately steer the market to greater financial and environmental outcomes.

Pricing Investigations

All the respondents who commented on these proposals agreed that the regulator should have powers to investigate networks where prices for domestic consumers appear to be disproportionate compared with other systems that have similar characteristics.

Price regulation

Those who commented on price regulation recognised that the development of a framework of price regulation in a heat network sector with multiple different types of heat networks would be extremely complex and agreed with the proposal that DfE should be able to direct the introduction of price regulation such as through a price cap, should evidence suggest such measures become required. One respondent went further and indicated that DfE should stipulate how evidence of potential detriment should be gathered, assessed and acted upon.

Once respondent indicated that any approach to pricing should consider the mechanisms by which heat prices change and are adjusted over time, advocating a balanced indexation portfolio, reflecting changes in the counterfactual as an approach that offers a non-discretionary price adjustment mechanism and ensures that any cost savings are passed onto consumers.

Quality of service standards

All respondents who commented on this proposal agreed that the regulator should ensure that all customers of heat networks should be given a comparable level of consumer protection to gas and electricity customers, irrespective of the size and age of the heat network.”

Respondents indicated that the regulator should monitor and enforce on quality of service issues including:

- measures for quality of service of heat networks;
- customer complaints, relating to price and service quality;
- continuity of service; and
- break in service.

The Consumer Council also indicated that they would welcome further engagement with the Department regarding their role in the provision of independent arbitration services and how that will align with existing precedent in Northern Ireland and fill potential gaps in consumer protection vis-à-vis the powers of the Energy Ombudsman in Great Britain.

Technical Standards

All respondents who commented in relation to technical standards support the inclusion of mandatory technical standards (and a certification scheme to ensure compliance) in the heat network regulations, as they recognise that poorly performing networks can cause consumer detriment. A number also suggested these standards should built upon the CP1 (2020) standards already established by CIBSE

One respondent commented that development of the heat networks Code of Practice led by CIBSE provided a suitable model for developing any further technical standards deemed to be necessary for the regulatory framework.

A number of respondents noted that such standards are likely to enhance consumer confidence as well as investor confidence.

NILGA highlighted commented around experience locally of private sector involvement in similar schemes. where the developer has gone out of business leaving residents in a state of confusion and with mixed views on how to move forward.

One respondent commented that the application of retrospective minimum build requirements is not practicable suggesting that where minimum technical operating standards are introduced they should remain voluntary for existing heat networks.

Where social housing is concerned, the voluntary minimum technical standards should reflect the cost implications of retrofitting heat meters on existing heat networks as per the cost effective analysis tool in social housing associations.

Department's response

DfE recognises that there is still work to be done in this area to ensure a fair and balanced regulatory framework is delivered. DfE will continue to develop detailed policy in relation to authorisation requirements around pricing, transparency and standards, including working with stakeholder, UR and the Consumer Council, as well as considering the detailed contained in the responses to this consultation, to ensure that the final regulatory framework protects consumers and supports operators.

Optional Licensing for Rights and Powers

Consultation proposal

Whilst recognising that further policy development was required in relation to a licensing regime that would confer the rights and powers available to other utilities on heat network operators/developers, the Department proposed to introduce any new rights and powers identified through primary legislation, and that they will be accessible by licensed heat network developers and operators (under the preferred model this will be an optional licence available to any heat network company that requires it, and can prove it will use the powers for the purposes of heat network development). DfE did not consider that adopting a general authorisation approach would negatively affect outcomes for consumers, compared to adopting a licensing system.

Respondents from the energy sector supported the proposal to introduce rights and powers for heat network development through primary legislation. They indicated that having a route to market would provide certainty to heat network developers based on the fact that a licence will be made available so long as the heat network developer can prove it will use the powers for the purposes of heat network development. Knowing that a licence can be obtained removes a high risk item from a projects assessment. Once respondent commented that costs for opening of road, obtaining rights of way can be high.

Department's response

DfE recognises that there is still a significant amount of work to be done in this area including engagement with DfI to ensure that the licensing regime works effectively within the current DfI policy and legislation framework. DfE will continue to develop detailed policy in relation to licensing as well as considering the detailed contained in the responses to this consultation, to ensure that the final regulatory framework is proportionate, suitable and supports heat network operators.

Potential for Zoning

Consultation proposal

DfE indicated that the heat network market in NI is very small and at this time it is not clear whether changes in planning policy will be required to promote its expansion. DfE intends to work closely with the Department for Infrastructure and local councils to ensure that policy development supports market growth. The Department recognises that planning policies in combination with concession arrangements can also be used as part of a zoning approach to ensure new build developments connect and/or to grant an area of exclusivity that enables development of one or more designated networks.

A number of respondents commented on proposals to consider heat networks zoning. Comments included support for the proposals to engage with councils in developing an agreed approach to the heat networks and collectively identifying the best approaches to promote their growth.

Respondents recognised that local energy planning, should be an intrinsic part of planning policy and guidance and that local councils are often best placed to identify whether a heat network is the appropriate solution in a development.

DfE's intention to work closely with councils as the heat network market expands to ensure that appropriate policies are in place in Local Development Plans was welcomed.

Department's response

DfE recognises that there is still a significant amount of work to be done in relation to heat network zoning area including engagement with DfI to ensure that the any policy proposals for heat networks sits appropriately with current DfI policy and the legislative framework. DfE will continue to develop detailed policy in relation to heat networks and as the market grows consider the most appropriate means of ensuring that they are considered within wider planning policy. DfE will engage with DfI as it reviews it's renewable energy policy to ensure heat networks are incorporated.

Cost recovery and fees

Consultation proposal

DfE indicated that options for funding were being considered for the additional resource requirements, including the option to grant the appointed regulator the power to raise fees from regulated heat networks to fund its regulatory activities. It is anticipated that fees will be scaled according to the regulated entity's size. The Department will be considering the balance between potential costs of funding the regulator's activities – which may affect consumer bills – against the level of oversight and anticipated compliance activity required for this market. Consideration will be made of how best to ensure regulation is proportionate and that any resulting costs to consumers remain appropriate to the benefits delivered.

Respondents indicated that whilst they recognised that the framework would result in additional cost the burden of these costs should not disproportionately impact heat network customers.

One social housing provider was concerned that this will impact their tenants adversely based on the comparative size of their operation to other heat network providers as the regulatory costs would be passed to their tenants. They indicated a preference that fees be scaled upon the size of individual heat networks.

Other respondents noted that BEIS plan to spread the costs of establishing a regulatory framework across the gas, electricity and heat network consumer bills making the regulatory costs significantly lower.

Department's response

DfE recognises that it will be important that the small heat network market in NI is not unduly burdened by the cost of the regulatory framework and intends to work with the Department of Business, Energy and Industrial Strategy to understand their plan to share the cost of heat networks regulation across the gas, electricity and heat network consumer bills with a view to providing the same funding mechanism in Northern Ireland address the costs of heat network consumer protection in Northern Ireland.

Step in Arrangements

Consultation proposal

DfE indicated that it was considering step-in arrangements to cover worst-case scenarios. The consultation recognised that this is a complex area, not least because of the range of circumstances that might trigger step-in arrangements and the risk of consumers being left without heating or cooling suddenly. This latter aspect is an important distinction from gas and electricity supply arrangements where a supplier may cease to operate or lose their licence, but the gas/electricity will continue to flow through the distribution network into the end consumer's property.

Consultation proposal

The Department envisaged a number of circumstances when step-in arrangements might be required.

1. Where the regulated entity is no longer able to provide heating and cooling to its consumers due to insolvency.
2. Where there has been significant and persistently poor performance by the regulated party has meant that the regulator removes the authorisation.
3. Where there has been significant and persistently poor consumer experience due to historical technical deficiencies of the network that the current regulated entity is unable to address.

Given the complexities of this area, it is likely that the nature of step-in arrangements may vary according to circumstances.

A very small number of respondents commented on proposals for step-in arrangements. The Consumer Council welcomed plans to introduce step-in arrangements to protect consumers in last resort scenarios.

Other respondents supported the use of proportionate step-in arrangements which protect investments and do not undermine investor confidence.

Department's response

DfE recognises that it is important that heat network consumers are protected from loss of heat, cooling or hot water due to problems with the heat network operator. Policy development is underway with a view to ensuring that step in arrangements, similar to those in place for gas and electricity customers are brought forward as part of the heat network market framework.

Further policy development

Respondents highlighted a number of issues that DfE should include in relation to heat networks and in its wider heat policy development. These included;

- the need to prioritise low carbon heat networks
- the provision of consumer redress and alternative dispute resolution mechanisms to ensure that NI energy consumers have similar redress powers to GB,
- the need for flag ship heat networks as examples of how heat networks can be designed, engineered, manufactured, installed, operated and managed effectively,
- the use of energy from waste in heat networks and the opportunities this can play can have in the provision of low and zero carbon heat.
- The need to ensure that policy proposals work in harmony with the regulatory obligations that are already in place for the electricity sector here.
- Availability of financing models

Department's response

DfE will continue to develop policy proposals and work with stakeholders, including UR and the Consumer Council to ensure that the resulting regulatory framework is suitable for a growing heat network market and a low carbon future.

We recognise that further consideration is needed across all the areas listed above and intend to take these forward through the wider implementation of the Executive's Energy Strategy – [the Path to net zero energy](#).

Next Steps

We will continue our ongoing engagement with stakeholders as we advance our policy and where issues emerge.

We will consult further on our policy proposals for secondary legislation to ensure that the resulting regulatory framework is proportionate, and supports our key objectives of providing consumer protection and supporting growth in heat networks. It is currently intended that primary legislation will be introduced in Westminster in May 2022, however this is subject to the Northern Ireland Assembly approval process.

As set out in the consultation document in January 2022, it is anticipated that there will be transition arrangements for some aspects of the Market Framework. The sector will be kept updated on these transition arrangements as policy proposals are developed, and there will be further opportunities for stakeholders to comment on proposals.

Annex A: List of Respondents

Broadly supported the proposals

Provided comments only

- Consumer Council for Northern Ireland
- BS Holdings
- Heat Trust
- SONI
- EQUANS
- DAERA Air and Environmental Quality
- INDAVER
- Edenderry Energy Village
- NILGA
- Firmus
- OFTEC
- National Energy Action NI
- MJM Renewable
- Royal Society of Ulster Architects
- Choice Housing
- Calor
- Energy Saving Trust
- Liquid Gas UK
- Competition and Markets Authority
- Northern Ireland Housing Executive