

Forward Work Programme Team
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09 February 2024

Dear Ofgem,

Ofgem's forward work programme 2024-25

I am writing to you on behalf the BUUK Infrastructure Group of companies (BUUK), in response to the consultation on [Ofgem's Forward Work Programme – 2024 / 25](#), published in December 2023. I can confirm this response is not confidential and can be published on the Ofgem website.

An introduction to BUUK and Metropolitan

BUUK is a leading UK multi-utility infrastructure investor, working across Great Britain and competing against incumbent utility companies. We have provided over 2 million utility connections, serving customers across 30,000 discrete networks and six essential utilities, and therefore have considerable experience across multiple utility industries. Our main investor is Brookfield, which owns 800MW of heat and cooling plant in North America.

We also operate in the heat networks sector under our Metropolitan brand and believe we can offer a unique perspective as an investor and operator of heat systems and an experienced owner operator of last mile utility distribution systems in five other regulated utilities. We are an active and founding member of the heat trust.

Ofgem's Forward Work Programme 2024-25

We welcome the transparency that publication of Ofgem's proposed plan of work for 2024-25 provides, particularly recognising the opportunity it gives stakeholders to comment on the content presented and to seek to influence Ofgem's focus for the coming year. Given our role in heat networks, we have focused our comments on the planned work that Ofgem presents with respect to its proposed strategic priority 'Shaping a retail market that works for consumers'. Within this priority, Ofgem makes reference to its role in 'supporting innovative and evolving markets' and specifically 'develop[ing] a proportionate regulatory framework to protect the customers of heat networks, while supporting investments in the sector'.

Our comments on the work proposed with respect to this strategic priority fall within the following overarching areas; each of which is discussed in turn in the following section.

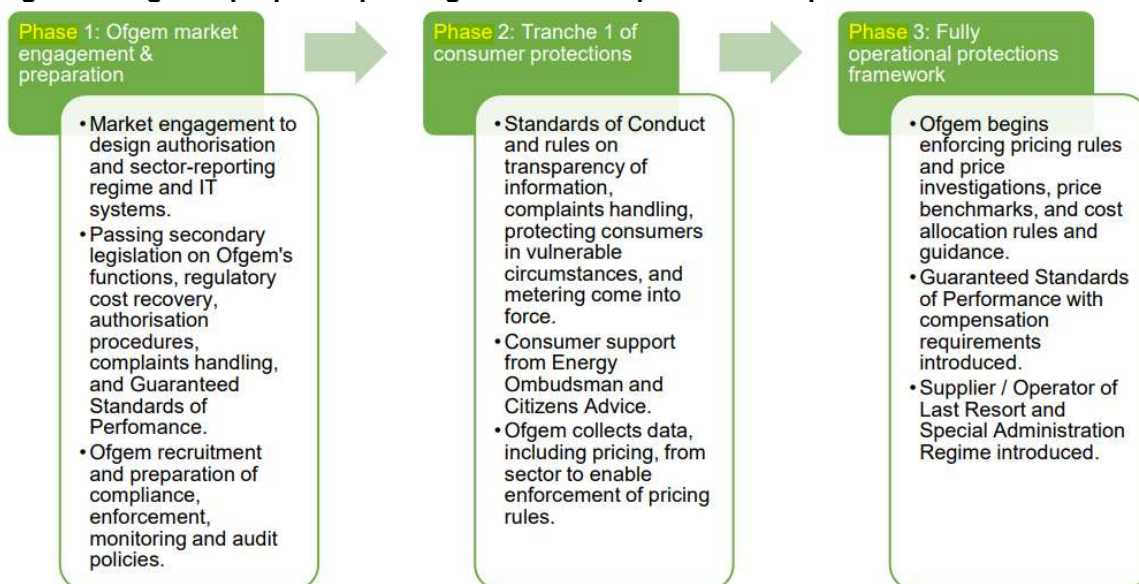
- An assessment of the alignment between the proposed programme of work for 2024-25 and the approach to phasing of the heat networks regime that was presented in the joint Ofgem / DESNZ consultation on [Heat networks regulation – consumer protection](#); and
- A summary of our views regarding the overarching objective that Ofgem has proposed for the heat network market in 2024-25 (to ‘develop a proportionate regulatory framework to protect the customers of heat networks, while supporting investments in the sector’) and potential conflicts that could arise due to the current direction of travel on certain policies.
- An overview of our views on the links between Ofgem’s proposed work on the Priority Service Register and the related initiative recently proposed by the Department for Business and Trade (DBT) in its consultation [Smarter regulation: regulating for growth](#).

Alignment of the programme of work with consumer protection proposals

Extensive industry discussions regarding the development of the heat network regulatory regime have taken place since publication of the BEIS consultation [Heat networks: building a market framework](#) in February 2020; and to date most of these discussions have been led by DESNZ. The joint DESNZ / Ofgem consultation on Consumer Protection, published in August 2023, was the first time that Ofgem had formally shared its views on the approach it intends to take to implementation of the heat network market framework; and we very much welcomed the transparency that this provided on the future direction of regulation.

One of the key areas that Ofgem discussed as part of this consultation was its initial thinking on how it should phase in the implementation of consumer protection requirements around pricing, quality of service, transparency of information, and consumers in vulnerable circumstances. Its proposals in this area can be summarised by the diagram that Ofgem presented in the consultation which is replicated below in Figure 1.

Figure 1: Ofgem's proposed phasing of consumer protection requirements



Our understanding, from informal discussions at the Ofgem workshops on its Consumer Protection consultation, is that Phase 1 corresponds to the regulatory year 2024-25 and phases 2 and 3 correspond to 2025-26 and 2026-27 respectively. A comparison of Phase 1 (in Figure 1 above), with the five discrete areas of work that Ofgem proposes to progress in its consultation on the forward work programme for 2024-25, suggests that some of the activities referenced in the consumer protection consultation may not be a priority for Ofgem during 2024-25. We made a number of observations in this regard and would welcome clarification from Ofgem about whether / how it intends to progress some of the Phase 1 issues identified in the Consumer Protection consultation during the 2024-25 period.

- Figure 1 above indicates that 'market engagement' will be taken forward to design the 'authorisation regime' and this contrasts with the proposed programme of work which states that Ofgem will 'confirm an approach to licensing and authorising heat networks'. The former description suggests that Ofgem intends to adopt a more consultative approach when further developing and refining the authorisation regime. Given our views in this area (discussed further in the following section), we would have a strong preference for a more discursive approach and would welcome clarification from Ofgem on how it intends to further develop its policy on the authorisation regime.
- Figure 1 above suggests that 'market engagement' will be taking place to design 'IT systems' but there is no mention of this activity in the Ofgem proposed programme of work. We are keen to engage on the development of these systems to help inform the associated specifications and ensure that they efficiently / effectively meet the needs of both Ofgem and the industry. We would therefore welcome clarification from Ofgem around whether it is proposing to progress this work in 2024-25.
- Figure 1 above lists numerous policy areas in which Ofgem is intending to pass secondary legislation, but the Ofgem proposed programme of work only makes specific reference to a consultation on guaranteed standards of performance regulations. We are keen to have the opportunity to engage in the development of policy on the additional areas presented in Figure 1 and would welcome confirmation that Ofgem intends to consult on these.
- Figure 1 above indicates that Ofgem will be preparing 'compliance, enforcement, monitoring, and auditing policies' during Phase 1 but there is no mention of this activity in the Ofgem proposed programme of work. We would welcome confirmation on whether Ofgem is intending to progress this work in 2024-25.
- Figure 1 above suggests that 'Standards of Conduct and rules on transparency of information, complaints handling, protecting consumers in vulnerable circumstances, and metering [will] come into force' in Phase 2. While the Consumer Protection consultation clarifies that Ofgem will aim to have complaints handling rules in place by 'the end of 2025', we assumed that the remaining provisions would come into force relatively early in Phase 2 and were therefore surprised that development of these policies was not one of the areas referenced in the proposed programme of work. We would welcome clarification on this.
- Figure 1 above indicates that in phase 2 Ofgem will collect data from the sector 'to enable enforcement of pricing rules' and this suggests that relevant pricing rules should be established when Phase 2 commences. If this is the case, we would expect Ofgem to consult with industry on the further development of policy in this area during Phase 1 and would welcome clarification on whether this is work that Ofgem will progress in 2024-25.

Views on heat network policy issues to be progressed in 2024-25

We note that Ofgem's proposed programme of work references an overriding objective for the activities it is intending to progress to support the further development of the heat network market framework in 2024-25 and its ultimate implementation in 2025. In this respect, the consultation states that Ofgem 'will develop a proportionate regulatory framework to protect the customers of heat networks, while supporting investments in the sector'. We are very much supportive of this objective and think that it effectively summarises the role that Ofgem should assume in 2024-25. However, we have some concerns that Ofgem's current direction of travel with respect to certain key policies will directly conflict with the achievement of this objective and would therefore encourage the regulator to revisit policy positions in the following areas.

- **The authorisations regime:** We have fundamental concerns around the proposal that heat network operators / suppliers should be required to attain authorisation for each new individual heat network they commission as we do not think this represents proportionate regulation. In fact, the approach could become unduly burdensome and create a barrier to entry, thereby having significant negative impacts on the development and growth of the sector. We note the experience of other utilities where site-by-site licensing has been used which has demonstrated challenges in balancing the regulatory need to attain sufficient assurances about a new site with the corresponding administrative burden and timing implications. We note that this is particularly pertinent in the context of a heat network sector where many companies, including BUUK, typically plan and run their heat network using the same set of technical specifications, operating provisions, customer protections and financial structures. We think there would be benefit in exploring a potential entity-level authorisations process under which heat networks would submit supporting financial, operational, and customer-facing documents on an annual basis for the regulator to assess and approve. Once entity-level heat network authorisation had been attained, relevant operators would simply be required to submit site-specific data to support future applications for new sites (assuming they were set to be designed to this specification).
- **The proposed approach to technical standards:** We have been actively involved in ongoing discussions via the Heat Network Technical Assurance Scheme (HNTAS) working group. We very much welcome the early agreement reached between members of the group that any technical assurance programme should be based on the established suite of CP1 technical standards. However, we have concerns that the current proposed approach is disproportionate to the associated risk and could introduce unnecessary bureaucracy which could ultimately impede the growth of heat networks. In this respect, the proposed supporting arrangements require compliance with a set of normative documents covering each of the six stages of CP1, from feasibility to operation, for each element of the overall heat network. If this approach is adopted, it will likely result in each new heat network needing to collate evidence for, and demonstrate compliance with, around 25-30 normative documents to attain a certificate of assurance for each new network it commissions. We consider this to be disproportionate to the risk that these heat networks are likely to pose particularly recognising, as set out in the previous bullet, that many companies typically plan and run their networks using a consistent set of specifications. In August 2023 we sent a letter to DESNZ setting out our detailed concerns

in this area as well as our proposals for an alternative, more proportionate approach; and we have attached a copy of this letter to this response for your information.

We have concerns that both proposed policy positions will place undue regulatory burdens on heat network operators which could ultimately deter potential new entrants and / or investors at a time when significant inward funding is needed to support the anticipated growth of the sector and meet challenging net zero targets. As such, we think these policy positions could also directly conflict with the overarching objective, of supporting investments in the heat network sector, which the regulator references in the proposed programme of work. We therefore think there is a clear rationale revisiting the current policy proposals in this area.

DBT proposals regarding the development of Priority Service Registers

We note that one of the proposals included in the recent DBT consultation 'Strengthening economic regulation' specified that "The government will coordinate and work collaboratively with regulators, the industry and devolved administrations to explore the creation of a single, multi-sector Priority Services Register". The discussion surrounding this proposal was primarily linked to the energy and water sectors, but DBT acknowledged the potential for the PSR to also be extended to the telecoms sector.

While Ofgem's forward work programme 2024-25 references its continuing work to 'expand the scope and effectiveness of the Priority Services Register', we note that the DBT consultation presented views regarding the multi-sector PSR which Ofgem will need to consider and may need to factor into its plan for 2024-25. In this respect, DBT set out an expectation that Ofgem should expand membership of its PSR working group to incorporate all relevant government departments, including the Cabinet Office who will coordinate government input. DBT also specified that the multi-sector PSR should ensure that consumers only need to disclose vulnerability once to reduce harm and improve wellbeing during incidents, increase the number of households receiving tailored services, save administrative costs and improve support services for vulnerable consumers. Finally, DBT also set out its view that a data hub, portal or sign-up service, hosted in the private or public sector, should exist on a 'Tell Us Once' basis, similar to the Department for Work and Pensions (DWP) service where individuals inform service providers of a death.

I hope these comments are helpful. I would be happy to discuss our response in more detail; please feel free to get in touch via email keith.hutton@bu-uk.co.uk or phone (07970 730688).

Yours sincerely



Keith Hutton

BUUK Group Regulation Director