

# Ofgem: Future Price Protection Discussion Paper

## A response from Scope

May 2024

Scope welcomes the opportunity to respond to this discussion paper<sup>1</sup>. Ofgem launched it to assess the options for reforming the energy price cap. The cap is designed to ensure people relying on their supplier's basic energy tariff are not overcharged for electricity and gas. It does this by limiting the price per unit of energy and the daily standing charge. The amount someone pays will still vary based on how much energy they use. We strongly recommend Ofgem keep the price cap and ensure that any reforms do not harm disabled people.

### Key points

- Scope strongly agrees that the energy price cap must be retained and warns Ofgem that any reform must not harm disabled people.
- We are concerned that without the cap disabled people would be hit by higher rates of excess charging than non-disabled people.
- This could have implications for the regulator's obligations under the Public Sector Equality Duty as it relates to disabled people.
- Any harmful reforms also risk conflicting with Ofgem's explicit statutory duty towards disabled people.
- None of the existing cap parameters should be relaxed until Ofgem provides assurances that disabled people will be better protected.
- The regulator must conduct an equalities impact assessment of its proposals including a review of the effect on disabled people.
- Changing from a flat cap to a dynamic cap could harm many disabled people, particularly those using medical equipment.
- Ofgem must be mindful that a targeted cap would inevitably exclude many disabled people.
- Disabled people face several risks if the energy price cap is shifted to a time of use (ToU) model without mitigations.
- Ofgem must work with the Government to design a discount energy tariff which mitigates the impact of their proposed reforms.

### Context

Life costs more if you are disabled. On average disabled households<sup>2</sup> need an additional £975 a month<sup>3</sup> to have the same standard of living as

non-disabled households. This is even when accounting for benefit payments such as Personal Independence Payment (PIP).

High energy bills are making the situation far worse. Lots of disabled people need to use more heating because they can't regulate their body temperature. Some need to charge equipment like electric wheelchairs. Others need life-saving machines like ventilators to breathe, or dialysis machines.

These costs cannot be avoided and result in many disabled people struggling to heat their homes. 17% of disabled households are in fuel poverty<sup>4</sup> which is substantially higher than the rate for non-disabled households (11%)<sup>5</sup>.

### **Q1: Do you have any reflections on our list of the cap's successes and challenges?**

Ofgem should recognise that transparency for customers has been a key success of the price cap. The cap ensures consumers are aware of how much more they will be expected to pay ahead of time. This makes it easier to budget. Customers are also better able to breakdown the components of their energy bill and assess if they are being overcharged.

### **Q6: Do you agree that we need to retain some form of price protection in the retail market?**

Scope strongly agrees that price protections must be retained. Without the energy price cap we are concerned that disabled people would be exposed to excess charging at a higher rate than non-disabled people.

Customers who face barriers to switching energy tariff are the main beneficiaries of the cap. Recent research has demonstrated the effectiveness of the cap in protecting customers who do not switch from being overcharged<sup>6</sup>.

Prior to the energy price crisis, when switching was more common, Ofgem's research showed that disabled people were some of the most likely to face barriers to switching tariff or supplier<sup>7</sup>. This makes the energy price cap incredibly important in protecting disabled people from paying even more for energy.

Any reform of the cap must be carefully considered to ensure disabled people benefit from the change rather than suffer further exclusion from the energy market. If Ofgem fails to consider the impact on disabled people then this would have clear implications for the regulator's Public Sector Equality Duty as it relates to disabled people<sup>8</sup>. These reforms also risk conflicting with Ofgem's explicit statutory duty to ensure its policy decisions account for the interests of disabled people<sup>9</sup>.

**Q7. Do you have views on which of the three key parameters – the cap being flat, universal and stringent – should be relaxed when considering future price protection options?**

Ofgem's price cap is described as flat because the consumer is charged a single rate. Ofgem is reviewing moving to a dynamic cap where unit rates change regularly throughout the day. Changing from a flat cap to a dynamic cap could leave many disabled people worse off. This is particularly concerning for those who rely on at home medical equipment who cannot shift their electricity usage to cheaper times of day.

"I am worried if am gonna have to choose how to spend my money this year. Just like last winter I put more on my electric so I could have a warm house and use my medical equipment and didn't spend it on food, so I would go a couple of days a week without eating so I could save the money for the electric". Emma, Workington.

Universality is another key parameter of the cap. In principle everyone using a basic supplier tariff is protected. Ofgem is considering targeting the cap at certain customer groups instead, for instance those in receipt of the Warm Home Discount (WHD). Ofgem must be mindful that a targeted cap would exclude many disabled people. 290,000 disabled households lost access to the WHD in 2022 due to changes in eligibility criteria<sup>10</sup>. The changes meant that their legacy benefits and Personal Independence Payments (PIP) no longer automatically qualified them for WHD support. If Ofgem used the WHD to target the cap it would miss these 290,000 households alongside millions of other disability benefit recipients who do not qualify. If Ofgem does implement a targeted cap we would be keen to work with the regulator to devise a targeting mechanism which fully includes disabled people.

"There is a reduction in assistance from government, I no longer qualify for the Warm Home Discount so this double whammy means that I shall

have to stop using the shower and will have to use the washing machine less often". Marion, Workington.

Lastly, the cap is stringent. This is because its value is calculated based on the expected running costs of a well operated energy supplier. Several factors have led Ofgem to propose a more adaptive approach. These include an increasing range of complex tariff options, different levels of exposure to debt, and more dynamic pricing. Relaxing these rules could result in very different pricing levels between suppliers. Pre-energy crisis disabled people were less likely to switch supplier<sup>11</sup>, so making the cap less stringent could leave them worse off.

Scope's view is that none of these safeguards should be relaxed until Ofgem provides assurances that disabled people will be better protected. Firstly, the regulator must conduct an equalities impact assessment of any proposed changes. This must include a full assessment of the impact on disabled people.

Secondly, affordability reform must sit alongside changes like these. Scope firmly supports the introduction of a discounted energy bills scheme to provide disabled households with affordable tariffs<sup>12</sup>. Ofgem and the Department for Energy Security and Net Zero (DESNZ) must work towards implementing this as soon as possible. This 'social tariff' must be universal across suppliers, targeted at all disabled people, and provide a meaningful discount on bills. Ofgem must work with the Government to implement this to mitigate any negative consequences of price cap reform.

"Disabled people need a social tariff. Without the monthly cost of living support we will be cold. I'm no longer eligible for the Warm Home Discount". Wendy, North Norfolk.

Once these mitigations are in place it will be easier to assess the options. On balance, the reforms which pose the greatest risk are if the cap is no longer flat or universal. An equalities impact assessment will make it easier to assess this.

**Q8 and Q9. What are your views on the options discussed? Do you have any preferred options or combination of options? In particular, which options or combination of options do you think would best protect vulnerable customers?**

Without an equalities impact assessment it is not possible to support any one option at this time (see response to question 7). We do want to caution that disabled people face several risks if the energy price cap is shifted to a time of use (ToU) model. Static and dynamic ToU tariffs are designed to shift energy consumption away from peak times using financial incentives. Many disabled people simply cannot shift their energy consumption away from peak times.

For example, those with autonomic conditions often have to keep the heating on throughout the day because they cannot regulate their temperature. Others have conditions which cause incontinence and need to wash and dry clothes at varying points in the day. For those using at home medical equipment, like dialysis machines, it could be dangerous for them to reduce their equipment use during peak times.

“I cannot regulate my own body temperature due to an autonomic disorder. I need heating in the cold weather & electric fans in hot weather”. Sharon, Birmingham.

Ofgem must be mindful of these factors when it assesses the options for reform. Without this the regulator risks breaching its Public Sector Equality Duty<sup>13</sup> and contradicting its statutory duty towards disabled people<sup>14</sup>. We would welcome the opportunity to discuss this with Ofgem and for the regulator to hear from disabled people about the implications.

**For more information, please contact:**

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**About Scope**

We’re Scope, the disability equality charity in England and Wales. We won’t stop until we achieve a society where all disabled people enjoy equality and fairness. At home. At school. At work. In our communities.

We’re a strong community of disabled and non-disabled people. We provide practical and emotional information and support when it’s needed most. We use our collective power to change attitudes and end injustice.

We campaign relentlessly to create a fairer society. And we won't stop until we achieve a society where all disabled people enjoy equality and fairness.

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<sup>1</sup> Ofgem, 2024. Future Price Protection Discussion Paper. Ofgem. Available at: <https://www.ofgem.gov.uk/publications/future-price-protection-discussion-paper>

<sup>2</sup> Defined as a household with at least one disabled adult or child.

<sup>3</sup> Scope (2023), Disability Price Tag, <https://www.scope.org.uk/campaigns/extra-costs/disability-price-tag-2023/>

<sup>4</sup> Note this is based on the Government's official LILEE measure of fuel poverty. DESNZ, 2024. Fuel poverty detailed tables 2024 (2023 data). Department for Energy Security and Net Zero. Available at: <https://www.gov.uk/government/statistics/fuel-poverty-detailed-tables-2024-2023-data>

<sup>5</sup> Figures are for England only.

<sup>6</sup> Public First. 2024. Fuelling Fairness: Five years of the energy price cap. [https://www.publicfirst.co.uk/wp-content/uploads/2024/02/Fuelling-Fairness-final-report\\_PF\\_190224-1.pdf](https://www.publicfirst.co.uk/wp-content/uploads/2024/02/Fuelling-Fairness-final-report_PF_190224-1.pdf). Pages 16 to 23.

<sup>7</sup> Ofgem, 2019. Consumer Survey 2019. Ofgem. Available at: [https://www.ofgem.gov.uk/sites/default/files/docs/2020/02/2019\\_consumer\\_survey\\_report\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2020/02/2019_consumer_survey_report_0.pdf). Pg7.

<sup>8</sup> MoJ, 2012. Public Sector Equality Duty. Ministry of Justice. Available at: <https://www.gov.uk/government/publications/public-sector-equality-duty>.

<sup>9</sup> See section 3A: UK Parliament, 1989. Electricity Act 1989. UK Parliament. Available at: <https://www.legislation.gov.uk/ukpga/1989/29/section/3A>. [Accessed 05/09/23]. Section 3A.

<sup>10</sup> BEIS, 2022. Warm Home Discount Final Impact Assessment. [https://assets.publishing.service.gov.uk/media/6246b816d3bf7f32b11f1f7b/Warm\\_Home\\_Discount\\_reform\\_final\\_stage\\_Impact\\_Assessment.pdf](https://assets.publishing.service.gov.uk/media/6246b816d3bf7f32b11f1f7b/Warm_Home_Discount_reform_final_stage_Impact_Assessment.pdf). Page 29.

<sup>11</sup> Ofgem, 2019. Consumer Survey 2019. Ofgem. Available at: [https://www.ofgem.gov.uk/sites/default/files/docs/2020/02/2019\\_consumer\\_survey\\_report\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2020/02/2019_consumer_survey_report_0.pdf). Pg7.

<sup>12</sup> Scope, 2024. An equal future: A manifesto for change. <https://www.scope.org.uk/campaigns/manifesto-for-an-equal-future/>. Page 11.

<sup>13</sup> MoJ, 2012. Public Sector Equality Duty. Ministry of Justice. Available at: <https://www.gov.uk/government/publications/public-sector-equality-duty>.

<sup>14</sup> See section 3A: UK Parliament, 1989. Electricity Act 1989. UK Parliament. Available at: <https://www.legislation.gov.uk/ukpga/1989/29/section/3A>. [Accessed 05/09/23]. Section 3A.