

# Heat network regulation: authorisation conditions

## Response from Citizens Advice Scotland to Ofgem

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### Introduction

Citizens Advice Scotland is pleased to have the opportunity to respond to this consultation, relating to the consolidated set of authorisation conditions for heat network regulation by Ofgem. Through the casework and industry engagement undertaken by CAS's Extra Help Unit in its role as provider of statutory, second-tier support for people in Scotland who use heat networks, it has become clear that the extent of inconsistency in consumer protection within the sector remains far higher than one might anticipate so close to the start of the first phase of regulation, which continues to lead to significant customer detriment. The drafting of the authorisation conditions is, by its very nature, a vital step in helping to address these issues.

### The role of operator

Whilst we acknowledge that policy decisions are not the focus of this consultation, we feel that the draft wording of the authorisation conditions fails to address an ongoing concern of ours, which relates to the interaction between the various parties involved in the operation of a heat network, and the interpretation of their respective roles and responsibilities. It is imperative that the relevant heat network parties agree on which of them should assume the role of "operator", and in our response to the consultation on "authorisation conditions for registration, nominated operator and notification of changes", we highlighted that the Extra Help Unit has handled cases in which it has been apparent that relationships between entities are not always positive, nor are they always clearly defined. We have continued to see examples of this, and recently received a referral on behalf of an especially vulnerable person who was living in temporary accommodation and was without supply for heating. The metering/billing agent advised that the managing agent of the heat network was responsible for providing the financial support that was needed, but the managing agent later advised that this was not the case, suggesting the metering/billing agent had provided incorrect information.

This lack of clarity resulted in our attempts to arrange vital support for the person being delayed, and underlines that heat network parties continue to demonstrate that they do not understand the extent of their own responsibilities. We understand that Ofgem has now chosen not to proceed with the previously-mooted proposal to intervene in scenarios whereby the role of operator cannot be agreed upon by the parties involved in a heat network, and the revised authorisation condition states that the "authorised person must use reasonable endeavours to agree with the other operators which of them is to act as the contact point with the Authority on behalf of each of them in respect of the relevant heat network." Our experiences in the sector, demonstrated in the aforementioned example, lead us to believe that relying on these entities to come to an agreement on this may not be the most fruitful approach.

## **The importance of engagement with consumer advice bodies**

In our response to the same consultation, we had proposed an obligation for authorised persons to confirm contact details of a named individual, solely for the purposes of engaging with Relevant Consumer Advice Bodies. This does not appear to have been addressed in the response to the aforementioned consultation on “authorisation conditions for registration, nominated operators and notification of changes”, and has therefore not been reflected in the draft suite of authorisation conditions. More broadly, there is no requirement across any of the authorisation conditions for authorised persons to engage with Relevant Consumer Advice Bodies in advance of a complaint or a referral being made. The conditions state the following: “The authorised person must put in place appropriate arrangements to deal effectively with referrals from a third party, including a Relevant Consumer Advice Body.” This does not align with the conditions set out in the Complaint Handling Standards for retail gas and electricity, which refer to an obligation on authorised bodies to implement appropriate arrangements “after discussion with consumer advocacy bodies.” The definition of “appropriate arrangements” is open to interpretation here, and without a stronger steer towards engagement with Relevant Consumer Advice Bodies, heat network parties may be likely to create their own complaints processes independent of any other framework. This could mean that, in many cases, such processes may be set up to favour the organisation in question, rather than in the interests of the consumer.

In our casework so far, we have identified a general lack of awareness of statutory advice and support at the first point of contact with an authorised person, leading to delays and difficulties in getting a case raised, which in turn makes it harder to achieve a positive outcome. Further to this, if a heat network party has not engaged with a Relevant Consumer Advice Body before a particular referral is made, the party will be unlikely to respond in a manner that aligns with the consumer advice body’s expectations. This could mean that, in theory, Relevant Consumer Advice Bodies will have to create different processes when engaging with each individual heat network party, further reducing the chance of achieving a desirable outcome. We would therefore call on Ofgem to adapt these authorisation conditions so that they mirror the Complaint Handling Standards for gas and electricity, and impose an obligation to engage with Relevant Consumer Advice Bodies before any complaint referrals need to be made.

That being said, we welcome the fact that the Complaint Handling Standards are, in fact, mirrored in the authorisation conditions in reference to the approach to complaints from domestic consumers in vulnerable situations, or complaints raised on behalf of these people by Relevant Consumer Advice Bodies. The case mentioned earlier in this response, whereby a person was without supply and needed financial support to top up their meter, is representative of the most common type of case we see at the EHU. It is therefore imperative that heat network parties are aware of their obligations to provide urgent assistance in these situations, and the inclusion of this particular part of the authorisation conditions is an important step towards achieving this.

## **The importance of strengthening complaint referral arrangements for non-domestic consumers**

We would query, however, the fact that this condition (4.15 under "Referral of consumer complaints") specifies "domestic" consumers in vulnerable situations. We understand, from Ofgem's response to the previous "Implementing consumer protections" consultation, that protections relating to vulnerability are not considered relevant to non-domestic consumers, and we acknowledge that a separate criterion of the aforementioned authorisation condition refers to a "Relevant Consumer where it is not reasonable to expect them to pursue the complaint on their own behalf", which could feasibly cover non-domestic consumers as "domestic" is not specified. However, our experiences in gas and electricity, where the debt recovery practices and threats of disconnection in the non-domestic market can lead to significant detriment, demonstrate that vulnerability can be a key factor in cases involving non-domestic consumers. Our statutory duties enable us to provide advocacy support for people and small businesses in vulnerable circumstances, and we would like to have assurances that provisions to assist non-domestic consumers are reflected in the authorisation conditions.

### **Conclusion**

We welcome the fact that Ofgem is consulting on the consolidated set of authorisation conditions, as it provides a further opportunity for industry to voice any concerns, following the suite of policy and guidance-focused consultations that have been published in recent months. We are in broad agreement with the wording that has been adopted, although as demonstrated in our response, we feel Ofgem must take further steps in resolving some key ongoing issues which, if unaddressed, will continue to adversely impact the consumer landscape in the heat network sector.