

National Energy Action (NEA) response to Ofgem's statutory consultation on the Default Tariff Cap



Action for Warm Homes

About National Energy Action (NEA)

NEA¹ works across England, Wales and Northern Ireland to ensure that everyone in the UK² can afford to live in a warm, dry home. To achieve this we aim to improve access to energy and debt advice, provide training, support energy efficiency policies, local projects and co-ordinate other related services which can help change lives. Our subsidiary Warm Zones is a not-for-profit Community Interest Company that also aims to work in partnership in various locations across the country to deliver integrated packages of energy efficiency measures, benefits and energy advice³. This practical insight plays a crucial part in enhancing the authenticity and insights within NEA's national advocacy.

Background to this response

Living in cold, damp and unhealthy homes continues to cause shocking levels of unnecessary hardship and premature mortality. Across the UK, at least 9,700 people die each year due to a cold home, the same as the number of people who die from breast or prostate cancer⁴. As well as the devastating impacts cold homes have on their occupant's lives, this problem extends to all of us; needless health & social care costs⁵, queues at GPs and A&E as well as delaying the discharge of the most vulnerable patients from hospital⁶. NEA believes dramatically improving domestic energy efficiency levels remains the most enduring solution to addressing energy affordability⁷, however, we also know other key actions are required in retail energy markets to safeguard vulnerable domestic customers, particularly those living on the lowest incomes⁸.

Our response to this consultation

In March last year, the Prime Minister described energy as an essential service. The Prime Minister also stated energy prices are highest for those on low incomes and switching alone is not working⁹. Whilst some early progress had been made following the Competition Market Authority (CMA)'s Market Investigation¹⁰, following the Queens Speech¹¹ the UK Government committed to "bringing forward measures to help tackle unfair practices in the energy market to help reduce energy bills". Using existing powers, NEA welcomed Ofgem moving quickly to extend the existing Pre-Payment Meter (PPM) Safeguard Tariff to an additional 1 million low income customers. This additional protection took effect at the beginning February 2018. NEA also welcomed Ofgem's subsequent consultation¹² which proposed to extend the Safeguard Tariff to an additional 2 million low income consumers that that are eligible, but may not receive, the Warm Home Discount. NEA also noted why this further action was desperately needed and fully consistent with Ofgem existing statutory duties¹³. Whilst NEA broadly welcomes the introduction of the Default Tariff price cap (as it will give price protection, for the first time, to a significant number of fuel poor, vulnerable and low-income customers, helping them to at least achieve a "fair deal" in a market where they may find it difficult to engage and switch), as noted below, the proposals set out in the statutory consultation will require some urgent changes before being implemented.

In particular:

- I. The GB-wide vulnerable customer Safeguard Tariff should not be withdrawn prematurely and should be extended to all households eligible for the WHD and operate alongside the Default Tariff wide cap.
- II. Both the WHD and Safeguard Tariff should continue once the wider Default Tariff cap is withdrawn.

Why is this action needed?

Despite existing provisions in the Bill allowing Ofgem to operate the Safeguard Tariff at the same time as the Default cap, Ofgem proposes to remove customers who are not on prepayment meters, but are receiving the Warm Home Discount, from the existing Safeguard Tariff. The limited rationale provide notes that the Safeguard Tariff was only intended as a temporary measure and at the time of switching them over, these customers may feel little impact as both caps are set at the same level. However, NEA is very concerned it will expose these low income and vulnerable customers to new costs in the near future, in particular those relating to smart meter delivery. Without acting in the way advocated above, it is clear that, perversely, vulnerable customers protected by a "Safeguard Tariff" will end up paying more than they would have done without the new cap¹⁴, we estimate a minimum of £9m per annum¹⁵.

As well as the direct impact these increasing costs may have to these customers, this outcome would also undermine previous repeated assurances provided during the passage of the Bill¹⁶ that this negative outcome would (and could) be avoided. It would also contradict Ofgem's existing statutory duties to take account of the needs of particular vulnerable groups of consumers; including those households living on low incomes and undermine Ofgem¹⁷ and the UK Government's¹⁸ own welcome preparatory steps to preserve and extend the Safeguard Tariff as the data sharing powers within the Digital Economy Act have now been amended. In addition, NEA notes the preservation and extension of the Safeguard Tariff is warranted as those currently protected by the existing Safeguard Tariff (or those that could be, by utilising the new data sharing powers that are now available) have not yet fully realised the benefits smart metering that was supposed to prompt major benefits¹⁹.

Next steps

Within the response to this consultation, we hope Ofgem will finally confirm that they intend to modify their proposed approach, preserve the existing Safeguard Tariff and act on the new powers to extend this protection to all those eligible for the WHD. In addition, Ofgem should state the timeframe for a separate consultation to establish views on the protections for vulnerable customers that will continue once the wider Default Tariff cap is withdrawn. In terms of the latter, as well as preserving and/or extending current protections, NEA is separately pushing for further reforms to the WHD policy so it provides more automatic rebates to working families and advocating a fairer way of setting and recovering standing charges. Both of these reforms would go some way to ensuring low income and vulnerable households receive better outcomes in a competitive market which must work in all consumers interests.

Appendix 1 – Letter from Lord Henley

Lord Grantchester
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22 June 2018

Dear Lord Grantchester,

I am very grateful for your continued interest in the actions of Government in protecting consumers, and for your support for the Domestic Gas and Electricity (Tariff Cap) Bill.

When we last met, we discussed protections for vulnerable consumers.

Firstly, we're working on information sharing to help better target assistance for those in fuel poverty.

On 17th May the Government laid the Digital Government (Disclosure of Information) Regulations,¹ before Parliament. That affirmative statutory instrument is designed to enable specific public bodies to share information to improve the provision and targeting of public services to benefit individuals and households. This includes the ability to share information for the alleviation of fuel poverty. The Regulations are scheduled for debate in both Houses on 25 June.

The new powers will enable the Government to share information with energy suppliers, so they can more readily identify households in need and provide support to those who are eligible. This support is specified in the list of fuel poverty measures in the Act and amending Regulations. It includes the Warm Home Discount (WHD), Ofgem's Safeguard Tariff and the Energy Company Obligation (ECO).

Secondly, on the matter of whether Ofgem's Safeguard Tariff will remain in place alongside the new price cap proposed by the Bill, I can confirm that Ofgem is proposing to keep the Safeguard Tariff in place if the new price cap is materially higher (i.e. gives less protection) than the level of the Safeguard Tariff. Ofgem have also committed to ensuring that vulnerable consumers are on the cap that gives them the highest protection, to ensure these consumers do not lose out when the wider price cap comes into effect. As I am sure you're aware, the existing Pre-payment Meter (PPM) Cap will be unaffected by this Bill and will be retained subject to a review of its duration by the Competition and Markets Authority (CMA) in 2019.

Thirdly, you also raised whether powers were required to allow a further price cap for vulnerable consumers to be brought after this cap has ceased. I can confirm that Ofgem already has the power to protect vulnerable consumers in this way as evidenced by the extension of the pre-payment meter cap to Warm Home Discount customers by licence modification.

¹ Link to Draft Digital Government (Disclosure of Information) Regulations 2018:
https://www.legislation.gov.uk/ukdsi/2018/9780111169445/pdfs/ukdsi_9780111169445_en.pdf

You may recall the comments made by Dermot Nolan, Ofgem CEO, to the Committee during the Bill's pre-legislative scrutiny on the ongoing support Ofgem may provide to vulnerable consumers upon the removal of the price cap. When asked whether a price cap or other protection may be needed for vulnerable consumers upon the removal of a market-wide price cap, Mr Nolan responded "*In my view, yes...I would envisage a very possible situation in which if a full, market-wide price cap was removed, Ofgem would continue with the price cap for vulnerable consumers*"².

I hope you find these points useful. I would, of course, set these out clearly in my response to any debate on these matters at Report on 27 June.

Yours sincerely,

THE RT HON LORD HENLEY

PARLIAMENTARY UNDER SECRETARY OF STATE

² See Page 9 of the BEIS Select Committee Oral Evidence Session from 10th January 2018:
<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-energy-and-industrial-strategy-committee/prelegislative-scrutiny-of-the-draft-domestic-gas-and-electricity-tariff-cap-bill/oral/76719.pdf>

¹ For more information visit: www.nea.org.uk.

² NEA also work alongside our sister charity Energy Action Scotland (EAS) to ensure we collectively have a UK wider reach.

³ For more information visit: <http://warmzones.co.uk/>.

⁴ NEA's recent joint briefing with E3G highlighted the UK has the sixth-worst long-term rate of excess winter mortality out of 30 European countries. Over the last five years there has been an average of 32,000 excess winter deaths in the UK every year. Of these, 9,700 die due to a cold home– the same as the number of people who die from breast or prostate cancer each year. The new analysis was released on Fuel Poverty Awareness Day the national day highlighting the problems faced by those struggling to keep warm in their homes. To read the press release and the full cop of the report visit: <http://www.nea.org.uk/media/news/230218/>

⁵ In 2016 BRE released its revised Cost of Poor Housing (COPH) report, which estimated the cost of poor housing to the NHS based on EHS and NHS treatment costs from 2011 and includes treatment and care costs beyond the first year. It also includes additional societal costs including the impact on educational and employment attainment. Finally, it provides information in terms of QALYs (Quality adjusted life years) as well as cost benefits, and to compare with other health impacts. The report estimates that the overall cost of poor housing is £2bn, with up to 40% of the total cost to society of treating HHSRS Category 1 hazards falling on the NHS. Overall, the cost to the NHS from injuries and illness directly attributed to sub-standard homes was estimated at £1.4billion, and the total costs to society as £18.6 billion.⁶ Research by the BRE in 2013 suggested that if all of the English housing stock with a SAP below the historic average of 41 was to be brought up to at least the current average of 51 through heating and insulation improvements, the health cost-benefit to the NHS would be some £750 million per annum.⁶ Other estimates put the costs to the NHS of energy inefficient housing at £192 million (£35 million of which was in the private rented sector). Use of the BRE category 1 calculator put the estimated private rented sector costs to the NHS at between £37 and £674 million depending on SAP rating and occupancy level.

⁶ Elliot AJ, Cross KW, Fleming DM. Acute respiratory infections and winter pressures on hospital admissions in England and Wales 1990-2005. J Public Health (Oxf). 2008 30(1):91-8.

⁷ NEA stresses to the UK Government the central importance of domestic energy efficiency remaining the most enduring solution to achieve collective goals; ending fuel poverty, a successful industrial strategy⁸, supporting small business growth in every region, helping to achieve carbon emissions reductions, improving local air quality, reducing health & social care costs whilst providing real benefits to households who are struggling financially. In this context, NEA has warmly welcomed the publication of the National Infrastructure Commission's (NIC) interim National Infrastructure Assessment (NIA). The interim NIA rightly identifies the need to urgently address the energy wastage in UK homes and states dramatically enhancing energy efficiency must be a key national infrastructure priority. NEA is also an active member of the Energy Efficiency Infrastructure Group who strongly support this approach. This approach is also currently supported by a growing number of Non-Departmental Public Bodies, academics, industry and NGOs. They all highlight why ending cold homes and reducing needless emissions via improving domestic energy efficiency must be a priority; no other form of investment can deliver so much.

⁸ NEA highlights that net disposable income after housing costs of a low income household is £248 per week (£12,933 per year), equating to 60% of the UK median of £413 per week. The income after housing costs of a fuel poor household is even lower: £10,118 per year, equating to a net disposable weekly income of £194. Investigating income deciles shows the poorest 10% of UK society have a gross average weekly household income of £130 (£6,760 per year). Fuel poor households overwhelmingly comprise the poorest fifth of society: 85% of households in fuel poverty in England are located in the first and second income deciles and 78% of English households in those two deciles are fuel poor.

⁹ The Prime Minister was speaking at the Conservative Party Spring Forum in Wales on the 17 March 2017

¹⁰ NEA welcomed the introduction in April 2017 of a price cap for Pre-Payment Meter customers

¹¹ The Gracious Speech, 2017

¹² The consultation was released on December 2017, see: <https://www.ofgem.gov.uk/publications-and-updates/providing-financial-protection-more-vulnerable-consumers>

¹³ Ofgem's duties include taking into account the needs of particular vulnerable groups of consumers; including those households living on low incomes.

¹⁴ The default price cap accounts for some costs that the safeguard tariff does not, including the costs of the smart meter programme. It is therefore likely that the default cap will rise quicker than the safeguard tariff.

¹⁵ The analysts Jefferies estimates that the default cap will rise by £9 due to an increase in operating costs for Summer 2019 (see <https://mobile.twitter.com/i/web/status/1039130554409598976>). Assuming that operating costs should only increase due to extra costs associated with the smart meter programme, This equates to a £9 difference for 1 million customers (according to Ofgem (<https://www.ofgem.gov.uk/about-us/how-we-work/working-consumers/protecting-and-empowering-consumers-vulnerable-situations/consumer-vulnerability-strategy/vulnerable-customer-safeguard-tariff>), meaning an overall detriment of £9m.

¹⁶ NEA highlighted the importance of preserving and extending the Safeguard Tariff during oral evidence provided to the BEIS Committee during pre-legislative scrutiny of the Domestic Gas and Electricity (Tariff Cap) Bill in March¹⁶ and subsequently, following the publication of the Bill in Parliament, oral evidence to the Public Bill Committee in April¹⁶. Following a series of cross party amendments¹⁶ NEA were subsequently given assurances from Parliamentary Under Secretary of State Lord Henley¹⁶ during the final stages of the Bill that "Ofgem is proposing to keep the Safeguard Tariff in place if the new price cap is materially higher (i.e. gives less protection) than the level of the Safeguard Tariff". This letter is included as annex. Following these developments, Ofgem also met with NEA, the Energy Minister and the Chair of the BEIS select Committee and gave similar reassurances.

¹⁷ Ofgem recently consulted on how data-matching for an extended Safeguard Tariff may operate. NEA agreed with the introduction of a licence conditions obligating suppliers to take preparatory steps now to have arrangements in place with the Department for Work and Pensions (DWP) for when the necessary data matching exercise will commence. NEA also welcomes Ofgem addressing the current unacceptable variance in the coverage of the existing Safeguard Tariff and we express our support for ensuring suppliers over 50,000 customers are able to deliver and target this vital assistance effectively in the near future. NEA also welcomed Ofgem committing to develop and implement the necessary data privacy impact assessments in time for when the extended Safeguard Tariff is implemented, hopefully for all customers eligible for the Warm Home Discount (within both the WHD core and broader group), by no later than this December. However, the consultation failed to provide clarity these steps will be introduced.

¹⁸ [https://www.parliament.uk/documents/commons-committees/business-energy-and-industrial-strategy/Correspondence/Letter-from-the-Chair-to-the-Secretary-of-State-\(BEIS\)-relating-to-vulnerable-energy-customers-1-November-2017.pdf](https://www.parliament.uk/documents/commons-committees/business-energy-and-industrial-strategy/Correspondence/Letter-from-the-Chair-to-the-Secretary-of-State-(BEIS)-relating-to-vulnerable-energy-customers-1-November-2017.pdf). In response the Secretary of State noted the Government's support of the safeguard tariff for vulnerable customers and said they were working actively working with Cabinet Office, the Department for Work and Pensions and Ofgem on how legislation, including the Digital Economy Act, could enable the safeguard

¹⁹ Whilst NEA had hoped the benefits of SMETS 2 would already mean suppliers would be coming forward with cheaper tariffs (due to the reduced cost to serve these customers), this outcome is now by no means guaranteed. Nor is it known whether the quantum of the passed through cost reductions smart could prompt will be parable with the level of bill reductions customers currently enjoy as result of the PPM or wider Safeguard cap.