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Competition and Markets Authority
Victoria House
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Dear Sir/Madam,

I am writing in response to your consultation on District Heating Networks.

About Ombudsman Services

Ombudsman Services (OS) provides ombudsman schemes across a variety of regulated and non-regulated sectors in the private sector. The two largest schemes are those in the energy and communications sectors.

In energy we provide redress for consumers who receive gas and electricity supplied through the regulated network of pipes and cables, as well as for issues related to distribution networks, and the Feed in Tariff. We also provide access to the Energy Ombudsman on a voluntary basis for issues with certain boilers and for district heating where the company has signed up to the Heat Trust.

‘Good for Consumers and Good for Business’

OS is a not for profit private limited company and a fully independent organisation. We are a member of the Ombudsman Association and abide by its rules. With the exception of the Financial Ombudsman Service we are the oldest ombudsman in a regulated sector. We are impartial and independent of industry, consumers, regulators and government, although we work closely with all of these groups. Our services are always free to use for consumers, with the costs borne by business rather than the taxpayer.

As a provider of high quality ombudsman schemes, we offer independent resolution of complaints about companies and provide redress to consumers. In addition, we use our expertise and data to help businesses improve their practices and behaviour so all consumers, not only those who bring their complaint to us, can benefit from better service. We are good for consumers and good for business. We are committed to a systemic approach going beyond just dealing with individual complaints, looking to improve consumer outcomes more widely. The businesses themselves reap the benefits of improved customer service in sharpening their competitiveness in the market.

Redress in domestic heat networks

OS supports the objectives of the Consumer and Markets Authority’s (CMA) market study into domestic heat networks, and its aim of ensuring households are getting a good deal from the sector. As you set out, the use of heat networks in domestic settings is growing quickly, supported in places with significant government investment as a means to improve efficiency and help decarbonise

energy. We support the use of such networks, but feel the natural monopolies they create for consumers mean adequate protection must be in place to ensure these gains are realised.

OS welcomed the launch of Heat Trust in 2015 as domestic heat network customers do not have an automatic right to access the Energy Ombudsman in the same way as domestic electricity and gas customers. As well as establishing clear standards of best practice in terms of quality and performance for heat network providers, the scheme also worked closely with OS to ensure all Heat Trust members offer access to the Energy Ombudsman for their customers. However, the current situation whereby membership of Heat Trust is voluntary, leaves many consumers unprotected. An effective system of redress in the sector requires mandatory access for all customers to an ombudsman who is able to undertake full investigations into all providers and produce outcomes which are binding on the company. As in the retail energy sector, where consumer detriment has taken place, the consumer should be compensated to recognise this.

As the sector matures and more consumers heat their homes through networks it is important that protections keep pace with the evolving market. Membership of the voluntary Heat Trust redress scheme should be extended to all providers that act in the market, and made mandatory. This is to ensure consumers remain protected as markets shift and new products are offered. Innovation is accelerating in the energy sector in particular so it is important that the regulatory environment is able to keep pace with developments to ensure consumers are protected.

A strong ombudsman should also have a systemic role, providing feedback to both individual companies and on an industry wide basis in order to reduce consumer detriment in a “virtuous circle” of feedback and improvement. The Energy Ombudsman provides valuable complaints data and insights on the market to government, regulators and the companies themselves. This helps identify sector-wide issues so they can be addressed as soon as possible and allows consumers to make more informed decisions. Making membership of Heat Trust a requirement to operate in the market would allow the ombudsman to maintain its oversight role of the market, ensuring that data and insights remain relevant, and the “virtuous circle” continues.

It should be clear to consumers where redress is available when things go wrong. Maintaining an Alternative Dispute Resolution (ADR) system which covers part of the sector confuses the landscape, as does the distinction between the Heat Trust and the Energy Ombudsman. If the sole ombudsman for the sector was required to provide redress to all heat networks it would be easier for consumers to access ADR, improving redress and understanding among both the consumer and the provider.

I look forward to working with you to improve outcomes for consumers with heat networks over the coming months. To discuss anything in this consultation in further detail, please do contact me via my PA Angela Houghton.

Yours faithfully,

Lewis Shand Smith, Chief Executive and Chief Ombudsman

Consultation questions

Theme 1: Transparency

1. Are consumers given sufficient information on heat networks before their decision to buy or rent a property that has a heat network?

OS has received complaints regarding charges consumers say they were unaware of prior to their decision to buy or rent a property. The complaints OS received suggest consumers are satisfied with the figures used to calculate the average annual energy consumption for the household and in most cases, the consumer confirms they received this information prior to buying a property. A complaint is usually raised upon receipt of a standing charge that is included within the bill that significantly increases the monthly cost. It is this charge that consumers say they were unaware of prior to the purchase of the property.

Although it should be noted that the gas and electricity markets also have standing charges that suppliers apply to customer accounts, OS' understanding is that heat networks include a charge for the upkeep and maintenance of the Heat Interface Unit, the equivalent to a gas boiler. The gas standing charge does not include a charge for the boiler as it is the owner of the property that is responsible for its operation rather than the supplier.

It is the responsibility of the seller or landlord to offer information on energy usage and pricing upfront to allow a buyer or tenant to make an informed decision. OS is therefore not in a position to investigate these types of complaints as sellers and landlords are not members of the Heat Trust Scheme.

We have recommended that the Heat Trust and the industry's District Heating Taskforce, which is considering consumer issues in the sector, look into which government departments and policy makers would be responsible for law around property sales and leasing; and how to influence those people to ensure consumers are better informed.

2. To what extent are consumers able to assess and act upon information regarding heat networks prior to purchasing a property?

As highlighted above, it is the seller or landlord of a property that should provide information regarding heat networks upfront to allow a potential buyer or tenant to make an informed decision before renting or purchasing the property.

OS is currently unable to investigate issues around information provision prior to purchase. The heat network providers publish general information about district heating on their websites to help inform consumers about their systems. But it remains the responsibility of the owner seller or landlord to signpost the potential buyer or tenant to those websites.

3. To what extent is information on the costs of heat networks made clear to customers in bills?

The data OS collates shows that the standing charges associated with a property on a heat network are the source of most billing complaints, rather than charges associated with heat energy consumption.

As identified above, there are a differences between heat networks and traditional gas and electric heating which may cause this issue, particularly regarding maintenance of the Heat Interface Unit. The

fact that suppliers are directly responsible for the upkeep of this unit, rather than owners, may lead to heat network prices being perceived as higher.

OS has received a complaint from a heat network tenant that raised this issue, arguing the landlord was responsible for the charges associated with the upkeep and maintenance of the Heat Interface Unit. The district heating supplier proposed to separate this charge from the tenant's bill and add it to a new bill in the landlord's name.

Whilst this seems like a fair approach, a consistent interpretation of these issues has yet to be reached within the district heating sector. We have raised this with the Heat Trust and the District Heating Taskforce to take into consideration.

4. Do you have views on our proposed approach to data collection and analysis?

OS supports the suggestion of utilising the BEIS customer survey, complaints data from Citizens Advice and Citizens Scotland, and new research in the form of interviews, case studies and focus groups to help inform the CMA's investigation into transparency pre-purchase and during residency.

OS is also able to offer data on request regarding the volume and type of complaints we receive regarding providers that are signed up to the Heat Trust. This may aid your investigations by highlighting the main sources of detriment that consumers face, the extent to which they complain, and the proportion which are deemed to be valid under the Heat Trust's regulations.

However, it is important to note that this data remains incomplete as Heat Trust does not cover the entire market. Should membership of Heat Trust be made mandatory we would be able to provide a comprehensive view of consumer issues and redress in the sector.

5. Do you think that the potential remedies we are considering are appropriate? What are the potential benefits / risks in implementing such remedies and how should they be designed to maximise benefits? Are there other remedies that we should be considering?

OS supports the CMA's proposal to implement a regulatory regime that would provide customers with sufficient transparency over metering and billing, as consumers are not always clear about the charges associated with a heat network – both prior to entering the property and in residence.

Extending existing energy and gas regulations to heat networks would help provide protections already established for gas and electricity customers – who are more readily able to switch providers – to their peers on heat networks. The implementation of new and innovative technologies must not entail a reduction in consumers' rights.

Theme 2: Monopoly Supply

1. Do heat networks exhibit natural monopoly characteristics (high fixed costs; economies of scale; barriers to further local entry to compete for existing customers)?

It is clear that heat networks create natural monopolies. At sites with networks in place a long term contract has usually been agreed between the developer and the network supplier. The minimum term contract OS has seen is 25 years. However, there have been examples of contract terms much longer than this. Consumers are unable to switch suppliers within the contract term. Though it is OS' understanding that it is possible to disconnect a supply should consumers wish, it would not be possible to install a gas supply to an individual property to replace the network.

It is unclear whether these monopolies encourage high costs or poor performance from suppliers. The complaints OS receives suggest that consumers consider the costs associated with a heat network to be significantly higher, but as detailed above this usually relates to the standing charges for the network and not the energy consumption costs.

The lack of published data on the sector makes it harder to determine if consumers are receiving a poor deal compared to their peers. It is unclear how many district heating companies operate in the UK so it is not possible to effectively determine if complaints per customer are higher for district heating properties compared to properties supplied by gas and electricity. OS would support the collection and publication of further information on the sector to allow comparison of the volume of complaints compared to other markets.

If all district heating operators were required to be members of Heat Trust, OS would be able to provide oversight of the market, collecting comprehensive data on its operation and providing feedback to both individual companies and on an industry wide basis.

2. To what extent are consumers able to switch from their current heat network providers to alternative heat network operators or to alternative heat sources? What are the key factors (contractual and / or technological) impeding consumers from switching?

OS does not hold data on switching as consumers are unable to switch supply due to the long term contracts in place between the developer and the heat network.

It is unclear whether consumers would have the right to switch provider when a contract expires. For example, could a heat network renew the contract term without the consent of the residents? If a resident would like a gas supply to their property then is this possible and, if so, which party would cover the cost of the work required? What implications would this have on the heat network infrastructure already in place?

Another concern regarding the long term contracts is that technology in the sector is advancing quickly and it is not clear if consumers on existing agreements will be able to benefit from advances over the course of the contract. Will this be replaced over time or will the old infrastructure remain in place until the minimum contract term has ended?

~~3. How do commercial and financial incentives at different levels in the value chain affect the decisions of builders, operators and residents?~~

~~4. Do you have views on our proposed approach to data collection and analysis?~~

~~5. Do you think that the potential remedies we are considering are appropriate? What are the potential benefits / risks in implementing such remedies and how should they be designed to maximise benefits? Are there other remedies that we should be considering?~~

Theme 3: Outcomes

1. Are heat network prices reasonable, and is quality of service and reliability adequate, when compared with alternative heat sources and/or operating costs?

The complaints OS receives relating to pricing suggest consumers are satisfied with the figures used to calculate the average annual energy consumption for the household. On most of the cases in question, the consumer confirms they received this information prior to buying a property. A complaint

is usually raised upon receipt of a standing charge that is included within the bill that significantly increases the monthly cost. It is this charge that consumers say they were unaware of prior to the purchase of the property.

It should be noted that the gas and electricity markets also have standing charges that suppliers apply to customer accounts. However, OS' understanding is that the difference between the standing charge for a heat network and the gas market is that the heat network includes a charge for the Heat Interface Unit. The gas standing charge does not include a charge for the gas boiler.

In terms of reliability, OS rarely receives a complaint from a residential customer where the gas supply has ceased. However, within the heat network sector we do receive complaints about intermittent heat and hot water supplies, low heat and hot water temperatures, or total loss of supply. This suggests heat networks must improve their infrastructure to ensure it is as reliable as the alternatives, and that consumer protections specific to heat networks should be brought into place.

~~2. Do you have views on our proposed approach to data collection and analysis?~~

3. Do you think that the potential remedies to control outcomes directly are appropriate? What are the potential benefits / risks in implementing such remedies and how should they be designed to maximise benefits? Are there other remedies that we should be considering?

OS would support rules on how providers should set and monitor service quality. The nature of heat networks mean consumers often face different issues than their peers on gas and electric heat. As identified above, these can include experiencing water or heating that is not as hot as expected.

In this example, an engineer can be sent to the property to amend the settings for the temperature of the water. In other instances, it may take longer for the hot water to reach a temperature that a consumer feels is suitable. This has a knock on effect as the consumer must use more water when waiting for the temperature to rise. This may increase the cost of the consumer's water bill.

Increasing the availability of data on the sector would improve the situation for both providers, who will be incentivised to improve their systems, and for consumers who would be able to compare providers more easily.