

# National Energy Action (NEA) response to Ofgem's Default Tariff Cap consultation



Action for Warm Homes

## About NEA

NEA<sup>1</sup> work across England, Wales and Northern Ireland to ensure that everyone in the UK<sup>2</sup> can afford to live in a warm, dry home. NEA also tackles exclusion in the energy market locally and nationally. To achieve this we aim to improve access to energy and debt advice, provide training, support energy efficiency policies, local health & housing projects and co-ordinate other related services which can help change lives. Our subsidy 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 advice<sup>3</sup>. NEA also provide the secretariat for the All-Party Parliamentary Fuel Poverty & Energy Efficiency Group to raise awareness of the problem of fuel poverty and the policies needed to eradicate it<sup>4</sup>.

## 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 cancer<sup>5</sup>. 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 costs<sup>6</sup>, queues at GPs and A&E as well as delaying the discharge of the most vulnerable patients from hospital<sup>7</sup>.

Whilst dramatically improving domestic energy efficiency levels remains the most enduring solution to adequately addressing these issues<sup>8</sup>, 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 working<sup>9</sup>. Whilst some early progress had been made following the Competition Market Authority (CMA)'s Market Investigation<sup>10</sup>, NEA also believes further action is required to safeguard vulnerable domestic customers, particularly those living on the lowest incomes<sup>11</sup>.

Following the Queens Speech<sup>12</sup> and the UK Government's commitment to "bringing forward measures to help tackle unfair practices in the energy market to help reduce energy bills", using existing powers Ofgem moved forward with plans

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 welcomed these efforts. NEA also welcomed Ofgem's subsequent consultation<sup>13</sup> 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. This further step is crucial as the households who currently miss out on the Safeguard Tariff are mostly working-age, fall into the lowest income deciles and are already facing thousand pound gaps between their incomes and the essential cost of living<sup>14</sup>. Despite these circumstances, they don't benefit automatically from either the discounts provided by the Warm Home Discount or the protection from unexpected bill increases afforded under current Safeguard Tariff. Whilst NEA recognise the wider Domestic Gas and Electricity (Tariff Cap) Bill being introduced, protecting these households is still NEA's key priority and, is fully consistent with Ofgem's existing statutory duties<sup>15</sup>.

Following a letter by the BEIS Committee Chair to the Secretary of State in November 2017<sup>16</sup>, NEA also welcomed the UK Government subsequently consulting<sup>17</sup> on new data-sharing powers to make it easier for the aforementioned low income consumers to be protected from "unfair energy bills" under the Safeguard Tariff. It should however be noted that the Government's earlier response to the BEIS Committee Chair had said the amended data sharing legislation could be brought forward early in 2018, subject to Parliamentary timings. Whilst the current delay is disappointing, within this announcement the UK Government specifically highlighted<sup>18</sup> that the new data-sharing measures will mean more vulnerable consumers would be protected from high energy bills automatically (via an extended Safeguard Tariff), confirming Ofgem's own original intent.

NEA subsequently highlighted the importance of adequately addressing these emerging issues via oral evidence provided to the BEIS Committee during pre-legislative scrutiny of the Domestic Gas and Electricity (Tariff Cap) Bill in March<sup>19</sup>. Subsequently, following the publication of the Bill in Parliament, NEA also provided further oral evidence to the Public Bill Committee in April<sup>20</sup>. During both sessions, NEA highlighted a concern that the extended Safeguard Tariff will fall away once the draft Bill becomes law. This key concern is evident due to an inaccurate assumption that the proposed Standard Variable Tariff (SVT)-wide cap will protect exactly the same households that are already protected by the Safeguard Tariff. NEA also highlighted that the relative values of those two caps are likely to be different given the requirements imposed on Ofgem within the draft legislation. Despite cross party amendments<sup>21</sup> which aimed to resolve these issues in the Commons (and some further recent signs Ofgem are now considering preserving and extending the Safeguard Tariff<sup>22</sup>), NEA continues to believe there is a significant risk low income consumers may still see their bills increase if the Safeguard Tariff is withdrawn prematurely (i.e once the wider SVT wide cap is introduced)<sup>23</sup>.

We therefore focus our response to this consultation on ensuring the benefits currently offered by the existing GB wide Safeguard Tariff are preserved and extended, irrespective of the wider price cap being introduced. NEA highlights above that there has now been a long delay to getting clarity on these crucial issues and we urge Ofgem to set out how they will mitigate the key risks noted above (the risk that the proposed SVT wide price cap will not protect exactly the same households that are already protected by the Safeguard Tariff and the likely possibility the value of the two caps is to be different). We hope this will result in an unambiguous statement that the Safeguard Tariff will not be withdrawn prematurely and will be extended no later than this December to operate alongside the (SVT)-wide cap and will continue long after the SVT cap is withdrawn.

### **Our response to this consultation**

As noted above, whilst NEA recognise the wider Domestic Gas and Electricity (Tariff Cap) Bill being introduced, we have not addressed the full details of Ofgem's Default Tariff Cap consultation and instead seek to underline the need to preserve and extend the benefits currently offered by the existing GB wide Safeguard Tariff, which is already in place for low income and vulnerable consumers, irrespective of the wider price cap being introduced. To secure some assurances on these issues in the Commons, NEA has worked with Rachel Reeves MP (the Chair of the BEIS Ctte), the Opposition and a number of cross party MPs to table suitable amendments at the Report Stage of the Bill which took place on the 30th April<sup>24</sup>. Whilst the Minister offered some assurances in summing up, the Bill was not amended and we therefore encourage Ofgem to clarify the following within the consultation response to the Default Tariff Cap Policy consultation:

1. Ofgem fully appreciate it would be perverse if low income and vulnerable consumers protected by the "Safeguard Tariff" see their energy bills increase as a direct result of the introduction of the wider price cap
2. Ofgem recognises that existing provisions [clause 1 (6)] of the Bill require them to have due regard to low income and vulnerable customers that may already be protected by the Safeguard Tariff when designing the Default Tariff cap
3. Critically, Ofgem should clarify that the introduction of the Default Tariff cap does not mean they will remove (or fail to extend) the current Safeguard Tariff for low income and vulnerable households. Ofgem should also indicate that they feel it is possible for the two caps to operate simultaneously and that an active work stream is now ensuring this approach is taken forward
4. Given the fact the Government have now honoured the commitment to introduce the enabling SI for data-sharing, Ofgem should state they can and will now extended the Safeguard Tariff as soon as possible and the extended Safeguard Tariff itself will go live no later than the beginning of December 2018
5. Ofgem should also clarify that existing provisions in the Bill [clause 3, 2 (a)] already mean Ofgem can bring forward the extended Safeguard Tariff at the same time as SVT cap and that the latter can continue long after the SVT cap is withdrawn

Whilst NEA has not sought to respond to the detailed consultation questions, we do offer three additional comments on the following areas:

- Adjusted the existing Safeguard Tariff
- The treatment of standing charges within the existing Safeguard Tariff or the wider Default Tariff price cap
- The conditions for effective competition and removing the wider default tariff cap

In terms of the former, NEA notes that it was welcome that the CMA methodology was broadly adopted when the existing Pre-Payment Meter (PPM) Safeguard Tariff was extended to an additional 1 million low income customers. NEA recommends that any further adjustments to the methodology (for the purposes of further extending the Safeguard Tariff to an additional 2 million low income consumers that that are eligible, but may not receive, the Warm Home Discount) should not be subject to any further variances on the original CMA methodology that increase the level of the cap. This recommendation is subject to one exception, the treatment of standing charges.

NEA believes Ofgem must investigate the setting of and recovery of costs within standing charges to ensure low income consumers that may only top up their pre-payment meters rarely, don't lose credit due to standing charges before they can access any energy. In this context, we note evidence<sup>25</sup> from Ideal Economics (authored by a former Senior Economist at Ofgem) who proposes capping standing charges as energy suppliers levy an average of £156 p.a. for this, whereas the costs they incur are approximately £100 lower p.a. NEA does not have the data to verify if these statements are true however we do note the impact of high standing charges continue to be have for PPM customers protected by the existing Safeguard Tariff, who continue to be at extreme risk of harm from self-disconnection as a result.

As well as the development of the extension of the existing Safeguard Tariff and the wider Default Tariff Cap, this issue is also relevant to the recent proposals of the Helm Review who noted the opportunities for ameliorating wider distributional impacts caused by energy policy by providing a an initial block of usage. In the short to medium term, Ofgem could specifically investigate this opportunity when setting network costs within standing charges for the purpose of these caps. In addition, within NEA's response to RIIO 2, NEA noted Ofgem should focus on reforming how Distribution Use of System (DUOS) charges are recovered and the opportunity to re-profiling the level of DUOS charges. As noted above, it is not right that low income consumers that may only top up their pre-payment meters rarely, loose a lot of credit due to standing charges before they can access any energy. It is also unfair that households who use very little energy and have negligible impacts on the use of the system pay the same DUOS as higher usage customers. Proportionate reforms in this area could lead to a much more progressive outcome than is currently the case. NEA also highlights the need for these reforms will be even more evident when Ofgem introduce half hourly electricity settlement and modify the current opt in consent process for accessing half hourly data via domestic smart meters.

Finally, in reference to the conditions for effective competition and removing the wider default tariff cap, NEA notes that any assessment must investigate the wider, more varied reasons why some customers are not active within the energy market or languish on a more expensive tariff or payment types. Some issues may not be specific to the energy industry (and not all able to be remedied by the energy industry alone) however they include:

- ❖ Underlying poor mental health or limited financial capability
- ❖ Limited internet access
- ❖ A preference or need to manage their limited budget via receipt of a paper bill, payment by cheque or cash in advance using a PPM
- ❖ Aversion to risk and therefore a reluctance to engage with an unknown (smaller) supplier
- ❖ High debt as a result of stringent or out of date credit checks
- ❖ A fear of losing key entitlements such as the Warm Home Discount
- ❖ Their tenure and a reliance on the current payment type due to their landlord's stipulations

<sup>1</sup> For more information visit: [www.nea.org.uk](http://www.nea.org.uk).

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

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

<sup>4</sup> For more information visit: [www.nea.org.uk/fpeeg/about-fpeeg/](http://www.nea.org.uk/fpeeg/about-fpeeg/)

<sup>5</sup> 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 copy of the report visit: <http://www.nea.org.uk/media/news/230218/>.

<sup>6</sup> 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 £1.4 billion, and the total costs to society as £18.6 billion.<sup>6</sup> 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.<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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 strategy<sup>8</sup>, 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.

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

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

<sup>11</sup> 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.

<sup>12</sup> The Gracious Speech, 2017

<sup>13</sup> The consultation was released on December 2017, see: <https://www.ofgem.gov.uk/publications-and-updates/providing-financial-protection-more-vulnerable-consumers>

<sup>14</sup> Ibid, Bridging the Gap report.

<sup>15</sup> Ofgem's existing statutory duties require them to take into account the needs of particular groups of consumers; including those households living on low incomes.

<sup>16</sup> [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 tariff to cover more vulnerable customers. He also said legislation could be brought forward early in 2018, subject to Parliamentary timings.

<sup>17</sup> Released in February 2018, see: <https://www.gov.uk/government/news/new-proposals-to-help-vulnerable-people-benefit-from-cheaper-energy>.

<sup>18</sup> Business and Energy Secretary Greg Clark said "the effects of energy price rises are often felt most by those on the lowest incomes, as they are usually on the highest standard variable tariffs. These people are at risk of being plunged further into fuel poverty if they are left at the mercy of a broken energy market. Enabling energy suppliers to establish who should be on Ofgem's safeguard tariff cap will help these vulnerable consumers. The proposed amendments to the Digital Economy Act will allow suppliers to work with government to carefully identify those whose energy bills are high and potentially putting them in financial difficulty. These people can then be placed under Ofgem's safeguard tariff cap, protecting them from high bills and unfair price rises".

<sup>19</sup> See: [https://hansard.parliament.uk/commons/2018-03-13/debates/b74fd2d8c-34f4-4159-b6d5-99308f983172/DomesticGasAndElectricity\(TariffCap\)Bill\(FirstSitting\)](https://hansard.parliament.uk/commons/2018-03-13/debates/b74fd2d8c-34f4-4159-b6d5-99308f983172/DomesticGasAndElectricity(TariffCap)Bill(FirstSitting)).

<sup>20</sup> In response, both Ofgem and the Minister stated publically that they recognised the need for the Safeguard Tariff to continue even if the SVT wide cap is in place by this winter. Further to this, the Minister also restated that the UK Government supported the positive case for the Safeguard Tariff to be expanded to those eligible for the Warm Home Discount scheme and this would be possible once the revisions to the necessary data-sharing in the Digital Economy Act schedules have been made. As noted in the consultation, it is anticipated that the Government is expecting to publish its response to this consultation shortly and regulations designed to make the necessary changes, which will also be laid for Parliamentary approval before summer recess.

<sup>21</sup> The Chair of the BEIS Committee and a number of cross party MPs tabled a suitable amendments at the Report Stage of the Bill which took place on the 30<sup>th</sup> April (see amendment 9, [https://publications.parliament.uk/pa/bills/cbill/2017-2019/0168/amend/domestic\\_daily\\_rep\\_0427.1-6.html](https://publications.parliament.uk/pa/bills/cbill/2017-2019/0168/amend/domestic_daily_rep_0427.1-6.html)) and watch the debate from 19.15 here: <https://www.parliamentlive.tv/Event/Index/450d1e00-73fd-4d1e-8792-df32dc3abb24?agenda=True>).

<sup>22</sup> 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.

<sup>23</sup> NEA stresses it would be perverse if the only people who see their energy bills increase as a direct result of the introduction of the wider price cap are low income and vulnerable households. This would potentially invoke public and political criticism.

<sup>24</sup> Watch the debate from 19.15 here: <https://www.parliamentlive.tv/Event/Index/450d1e00-73fd-4d1e-8792-df32dc3abb24?agenda=True>).

<sup>25</sup> IDEAL ECONOMICS, The case for a cap on the standing charge in energy bills, David Osmon, June 2018.