

Energy Security and Net Zero Committee

Oral evidence: [Preparing for the winter](#), HC 1720

Wednesday 13 September 2023

Ordered by the House of Commons to be published on 13 September 2023.

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Members present: Angus Brendan MacNeil (Chair); Vicky Ford; Barry Gardiner; Mark Garnier; Sir Mark Hendrick; Mark Pawsey; Lloyd Russell-Moyle; and Alexander Stafford.

Questions 176 to 249

Witnesses

I: Jonathan Brearley, Chief Executive, Ofgem; Rohan Churm, Interim Director of Financial Resilience and Controls, Ofgem; Neil Kenward, Director of Strategy, Economics, Research & Net Zero and Interim Director for Markets, Ofgem; and Cathryn Scott, Director of Enforcement and Emerging Issues, Ofgem.

Written evidence from witnesses:

– [Ofgem](#)



Examination of witnesses

Witnesses: Jonathan Brearley, Rohan Churm, Neil Kenward and Cathryn Scott.

Chair: Good morning, and welcome. Today the first session we have is with Ofgem, and it is very pleasing to see the chief executive of Ofgem and colleagues here this morning. I will ask you all to introduce yourselves—name, rank and serial number—starting, of course, with Mr Brearley.

Jonathan Brearley: I am Jonathan Brearley, CEO of Ofgem.

Rohan Churm: I am Rohan Churm, interim director of financial resilience and controls at Ofgem. I am on secondment from the Bank of England.

Neil Kenward: I am Neil Kenward, the director for strategy at Ofgem.

Cathryn Scott: I am Cathryn Scott, the director of enforcement and emerging issues.

Q176 **Chair:** It is good to see you again. Thank you for coming along. Mr Brearley, how does Ofgem prioritise its various and often conflicting responsibilities towards suppliers and consumers?

Jonathan Brearley: Everything we do is guided by our statutory duty, and that is, in essence, to protect the interests of current and future consumers. When you break that down and look at it, it means making sure, yes, that things are as cost-effective and good as they can be today, but also making sure that consumer interests are protected in the future. For example, we need a financially resilient market, because we saw in 2021 the consequences for customers of having a market that is unable to cope with the conditions that we find ourselves in.

When I look across the market this winter and think about how that plays out for us this winter, I should start by saying we have a full focus on making sure customers are protected this winter. There is some positive news: the market is more stable; it is less volatile, and prices are lower than they were this time last year. This time last year, we were anticipating and seeing prices at around £4,200 a year without Government support.

Last year, Government did step in to give tens of billions of pounds of support to customers. But there is a reality for customers this year. That support is not available, so for many people, their bills will be very similar this year and possibly worse for some than they were last year. What that means for me is that Ofgem, Government, the industry and consumer groups need to be fully focused on the needs of customers, particularly the most vulnerable. I spend a great deal of time with vulnerable customers. I know the hardship that they were concerned with last year. They will be facing a similar situation this year.



Q177 **Chair:** What can you do for them?

Jonathan Brearley: I will start with what we should do and I will talk about what I think we should ask the industry to do as well.

There are three broad areas. The first is consumer standards across the board. We need a better and more responsive service than we had last year, so we have introduced a new consumer standards framework to bring in new rules to drive that, in addition to existing rules. For the most vulnerable, we need to increase protections. That includes making sure that at all stages of the debt process they are protected: they are offered full repayment plans and they are given access to information and advice. And of course, we have introduced the prepayment meter code of conduct.

What I can announce today is that that code of conduct is going into regulation. The criteria we have for those who cannot have a prepayment meter at all are being tightened, so those families with children under two or those families that have people who are all 75 years old or older will not have a prepayment meter forcibly installed, as of the announcement that we are making today.

Q178 **Chair:** That is families with children under two or people over 75. The rest might have prepayment meters installed?

Jonathan Brearley: We have a category where further assessment is needed. For that category, energy companies have to make a further assessment. They have to reassure themselves that there won't be necessarily self-disconnection. I might ask Neil to expand on that.

Q179 **Barry Gardiner:** Are the meters mechanical or smart? I ask because we heard a very clear distinction when we had the companies in front of us: the smart prepayment meters—the smart meters—going in were really good, but the mechanical, old-fashioned prepayment meters were not. What's the score?

Neil Kenward: We agree entirely that smart prepayment meters are enormously more beneficial for all consumers but particularly any consumers with some vulnerabilities.

Q180 **Barry Gardiner:** Why have you just said "prepayment meters"? Which ones are we talking about not putting in?

Neil Kenward: For the new licence condition that we are bringing in today, we require, for all suppliers putting in new prepayment meters, that they must be smart unless there is a very good reason why not. Some households, for example, can't operate a smart meter yet. So we are making that a requirement, and we will ask the suppliers to tell us what the reasons are if they can't install a smart PPM.

Q181 **Barry Gardiner:** And are they not allowed to install a meter until you have approved those reasons?

Jonathan Brearley: No, we have to allow the companies to do that, but they will be reporting to us on that balance. If we see this going out of balance, of course we will take action. You have to also understand: that is



HOUSE OF COMMONS

as far as we can go within the legal context. At the moment, if a family refuse a smart meter—they can say no.

Just to finish my list, I should add on prepayment meters that we have levelised the prepayment and direct debit rates. We are looking further at levelising the standing charge—

Q182 Chair: So there are no extra costs for people on prepayment meters.

Jonathan Brearley: Yes. That is with the help of a Treasury intervention, but we will be making that levelisation permanent. Equally, we have made sure that all suppliers for prepayment customers can offer top-up credit to prevent the sort of self-disconnection that we saw last year. So we have a big package for those on prepayment meters.

In addition, the financial regulation work that we have done since 2021 has made sure that the sector is in a much more financially resilient position. That will protect customers against the sort of volatility that we saw in 2021—not perfectly, but the industry is moving to a better place. Of course, we have concerns about the price cap, but we are administering pricing regulation.

Before I finish, I want to make clear our expectations of industry, and I want you and the industry to be clear that things need to improve from last year. What did we see last year that we are not comfortable with? We saw service standards that were not acceptable. To take the example of E.ON, half of its customers put down the phone because they could not get through to the company to highlight their problems. If you are a vulnerable customer, that is unacceptable. That is why we fined E.ON. It has improved its service significantly, but across the board we need to see better service standards. All of us, not only Ofgem, but the companies themselves, need to make sure that we protect the needs of the most vulnerable. We are looking not just at prepayment meters, but across the board.

Finally, we want competition back in this market. We need new tariffs and new offers for customers to make this market more dynamic. We will do our part with consumer groups and the Government, but the industry needs to do its part.

Q183 Chair: Somebody observing this might say one of two things: uncharitably, that this is Ofgem playing catch-up; or, charitably, that this is Ofgem reacting to difficulties in the past winter, and making sure that they do not happen again. Also, they could say that this is Ofgem firing a shot across the bows of the companies that things might change again next winter.

Is the announcement you made today one of a series that will come in future years, or is this it for quite a while? How reactive are you going to be?

Jonathan Brearley: Bearing in mind the level of turbulence in the market last year, there is no doubt that the industry, the regulator and the Government were dealing with very changeable and very difficult

circumstances. This year we are more proactive: we are looking ahead, telling the industry and setting the rules to make sure that they behave fairly.

The prepayment meter announcement that I made today is not the end of the story. There will be more coming to make sure that we work collaboratively with the industry to look after customers' needs. I should emphasise that we are not here today saying that everything is terrible in the industry. I have seen some excellent practice—we have all visited to see what companies do—but we need overall standards to be raised.

Q184 Chair: I want to raise a final point with you before I pass over to Vicky Ford: did Ofgem's lack of proactive supervision of new suppliers in the last decade contribute to the high energy costs that households now face?

Jonathan Brearley: Without a doubt, when you look at the independent Oxera report and the drivers for what happened in the gas crisis of 2021, the biggest driver of changing costs was the volatile wholesale prices and the impact that they had.

We have already said in front of the prior Committee to this one that, with hindsight, the financial regulations should have been different. There should have been more supervision, and had that happened, there would have been fewer failures. I should point out that that was one element of regulation; the other was the ability of the price cap to adapt to a volatile market. Those two things together did cause some of the problems that we saw.

Q185 Chair: There are criticisms of the price cap outwith and within Ofgem. What are your own criticisms of the price cap?

Jonathan Brearley: To understand, we need to go back to the situation in the mid-2010s when the price cap was introduced. I do not think that anybody wants to go back to a world where if you are a customer who does not switch, a company has almost full licence to charge what they want. That had two impacts: people paid too much—profits were very high from those customers—but it also meant that there was not big pressure on the industry to become more efficient.

I bought, and I buy, the reasons why we need pricing regulation. The concerns that we have expressed, and the potential costs of the price cap, are about having regulation that is so broad that it almost covers every household with every company, dealing with very different situations. In those circumstances, where we have such a volatile and changeable market, it has costs as well as benefits.

I am not here today to say that this is not the best of a series of difficult options; what we are saying is that we would like all options to be examined to make sure that we are making the right trade-off. The market today is so different from the market in 2018 when this was introduced.



Chair: I might come back to this later, but time is pressing. I do not need an answer to this at the moment, but I will make an observation: the price cap can be seen as a target. There must be ways to highlight those who are charging prices below the price cap—and give some sort of praise — and to start a movement within the industry to recognise not using the price cap as a target for profits, but to use other ways to give customers a better and more competitive price.

Q186 **Vicky Ford:** Before I get on to my questions, I would like to draw your attention to a flurry of emails that I have received from constituents—there is a campaign going on. It relates to your director of retail at the time, Neil Lawrence, and these emails say he had a conflict of interest; his wife held shares in SSE during a period in which over 20 decisions were made to increase allowances in the price cap. The allegation is clearly that his family may have been making money out of those decisions. My constituents are asking me to ask: has there been an independent investigation by auditors, and how do your policies manage conflicts of interest internally?

Jonathan Brearley: We are happy to follow up in more detail with the Committee on the particular case. It was a very small number of shares and SSE are not affected by the price cap because they do not have a retail business that has domestic customers. But absolutely, we can update on our policies—

Q187 **Vicky Ford:** Clearly there is a national campaign. People have been asked to write to their MPs and it has been going since the beginning of September. I think it would be helpful if there was a letter to colleagues explaining the situation.

My questions again follow on from what you are saying about vulnerable customers. When we met the consumer groups last week, they were particularly concerned about certain groups of customers. There is a group of households that do not qualify for means-tested benefits and do not receive universal credit, yet are still in fuel poverty. Who do you think should be supporting them? Ofgem? The Government? How does one support them?

Jonathan Brearley: There are two dimensions to that. With the regulator, the industry needs to do what it can for all customers, and there are industry schemes that people can access if they are struggling to pay their bills.

As I say, there is a set of behavioural rules around how you deal with anybody struggling to pay their bills, and we are making sure those are fit for purpose and we will be monitoring them over the winter. When it comes to any question of, “How do we redistribute? Can we take something off of those bills? Do we give people money some other way?” that is ultimately a political decision and a matter for Ministers. To be clear, everyone needs to play their part for that group—and for all vulnerable customers, in fact—but ultimately if there are bigger decisions about where money goes, that is something for the Government as they are the only ones with the fiscal capacity for that.



HOUSE OF COMMONS

Q188 Vicky Ford: When you are trying to get that targeted support to customers and identify them, but you have some customers who live off grid, some who do not engage digitally, and some who are terrified of opening a letter in case it is another bill, how do you target that support to those hard-to-reach people?

Jonathan Brearley: I will give a view of what the industry does, but this is something where all agencies need to work together. What do we expect companies to do? First, we expect them to have different means of communicating with customers—some people do not answer letters, some people prefer the phone, and actually some vulnerable customers prefer the internet because it is less personal and easier to give personal information, for example. That, however, is not the only way that we are going to reach that group.

My background is also in social policy for the same group of people, and you need to work with local authorities and the people who have contact with those groups to ensure that they get access to it. For me, this is about us, the industry, and the Government making sure we use all vehicles to get access to people. One thing I would say is that I do think there is more work collectively for us to do with DWP to ensure that we are using all the means available to access what is a difficult-to-reach group.

Q189 Vicky Ford: I am sure you heard the evidence that was given summarised. Some of those groups who are supporting those very vulnerable people asked, “Could we have a fast-track hotline so that we can get directly into those companies?” Will you look at things like that?

Jonathan Brearley: Absolutely, and I think that is all part of this work of trying to make this—

Vicky Ford: Could you look at that urgently for this winter please?

Jonathan Brearley: Yes, we are very happy to.

Q190 Vicky Ford: They particularly asked for more encouragement from you—whether or not that is a power—to go to households with legacy, old-fashioned prepayment meters and install new ones. Are you looking at that?

Jonathan Brearley: Let me be really clear on this, and I am sure that Neil will come in because this is a passion of his. We think that the benefits of smart prepayment meters are far greater than the benefits of a normal analogue prepayment meter. I had an analogue prepayment meter when I first moved to London, and having to go out and go down the street to top up your energy is not where we should be in the 21st century. We would encourage companies to do everything they can to make that change.

Q191 Vicky Ford: You would, but they are not getting that. They think that they do not have the ability to do that. Given the evidence that we heard last week, I would ask you to look urgently at what needs to be done to try to encourage those vulnerable customers and to get some of these



HOUSE OF COMMONS

companies to really focus on delivering that.

Some companies are clearly much better than others. When we had all those power companies here, there were some where I really felt like, "They've got the empathy; they understand the need," but there was at least one where I felt, "Where's the empathy?" How do you actually measure who is giving decent customer service? Why the hell did you not see—sorry, my language might be quite strong but I'm quite cross—the whole prepayment meter scandal coming? How are you measuring what customers feel about the service they get from their energy company, because it clearly is very variable?

Jonathan Brearley: I am going to talk in more general terms, then I think we should come on to prepayment meters and the run-up to that, what we did and how that happened. We have lots of metrics, including customer satisfaction metrics, that we look at across the industry.

We also spend a great deal of time with the CEOs and their teams, together with consumer groups, to ensure that they follow the rules that we set. We spend a great deal of our own time out there talking to customers to ensure that we pick these things up. I will bring in Cathryn in a moment. In the case of prepayment meters, we had spotted that things were rising. We had—

Q192 **Vicky Ford:** Do you mystery shop—pretend you're a consumer and see if you get your question answered? We were told very clearly that some consumers ring up and hang on for ages but don't get their question answered.

Cathryn Scott: We have been trying to increase our incorporation of the customer experience into our investigations. We listen regularly. For example, in the prepayment meter market reviews and investigations we are doing, we set up a phone line for people to phone in to tell us their experiences, and we have taken that into account. We have worked really closely with Citizens Advice and the ombudsman to get their complaints data, so we can analyse that. Our staff regularly listen to calls, some of which are quite harrowing; we are incorporating that into our work on compliance and enforcement.

Jonathan Brearley: To build on that slightly, when we asked companies—we had this whole process last year called the market compliance review. We had mixed reviews from companies—they don't quite like it—but the whole principle is that we go into those companies to see what they are doing. As part of that, we take a random sample of their calls, and that has uncovered some of the issues that we have had to deal with.

For example, where companies have been careless about repayment plans, saying, "Just pay a certain amount on your repayment plan, and that is the offer we are making," we have picked that up by hearing the calls. It is then hard for someone to deny that that sort of behaviour happens.

We should also point out that after the prepayment meter issue broke, we spent a great deal of time with Citizens Advice and we now work very closely with them. We have a huge amount of evidence that they give us about how customers complain.

Going on to the prepayment meter issue, we had already said to the industry that it should change. When the story broke, we introduced a moratorium and a code of practice. I think that the evidence from consumer groups last week was, broadly, that they support that as a direction of travel—not everybody, but certainly a large number of them.

Chair: Is that you done, Ms Ford?

Vicky Ford: I could go on and on, but I'll hand over.

Q193 **Mark Garnier:** Jonathan, in your interaction with the Government and the Department, have you met the new Secretary of State yet?

Jonathan Brearley: I have had a call with the Secretary of State, yes.

Q194 **Mark Garnier:** You have, so you have gone through that thing. And how often did you meet with Grant Shapps before?

Jonathan Brearley: We met the Department frequently, with a range of Ministers—

Mark Garnier: You are avoiding—okay, yes.

Jonathan Brearley: But we did have meetings with Grant Shapps.

Q195 **Mark Garnier:** But the important point is you satisfied with your access to Ministers and senior people in that Department; you have never had any problems with that.

Jonathan Brearley: One of the implications of the past three years is that we have had to work incredibly closely together. Remember, the price guarantee was £30 billion of their money that we were administering. The energy bill support scheme was very similar, and the scheme for business. We worked very closely throughout this crisis.

Mark Garnier: So you are happy?

Jonathan Brearley: Yes.

Q196 **Mark Garnier:** Have the Government sought advice from you about how to support vulnerable customers? Do they come to you for specific advice on what policy they should deliver?

Jonathan Brearley: They do. They ask us, for example, for underlying data on the way the industry might evolve and things like the way bad debt might change over time, which is a critical part of their thinking. We work very closely with them on all options.

Q197 **Mark Garnier:** And you are happy with that? There's no problem with that interaction at all?



HOUSE OF COMMONS

Jonathan Brearley: I don't think so. The only thing I would say is that we respect each other's roles here.

Q198 **Mark Garnier:** You are a non-ministerial Department; I think that is the point.

Jonathan Brearley: Exactly.

Mark Garnier: So they can't affect what you do other than by primary legislation—that is right, isn't it?

Jonathan Brearley: That is right. Equally, there are policy decisions for them that ultimately they need to make.

Q199 **Mark Garnier:** Absolutely.

Do you think the warm home discount should be broadened so that it applies to a wider range of vulnerable customers?

Jonathan Brearley: I suppose that this is a really good example; I will just come back to what we are seeing for this winter and what we might see in a sustained way for the market. We are seeing a group of customers who will struggle to pay this winter. We know that. But I have to recognise as the CEO of Ofgem, the energy regulator, that that is not the only problem that families are facing this year.

Government is going to have to make a set of decisions around how it supports families as a whole with their rent and mortgages and with their food prices as well as with their energy prices. Some will be about tax and benefits changes—nothing to do with the regulator. Some might be within the market. I don't think it is appropriate for Ofgem to put forward a view on that.

Q200 **Mark Garnier:** One thing that I think affects a lot of quite middle-class families who would not normally fall within the warm home discount remit is people who—dare I say—have been enjoying the benefits of super-low interest rates. We are now seeing mortgage renewals taking them from 1% to 5%. That is going to absolutely whack those people who otherwise thought of themselves as pretty secure and comfortable, and now they are going to be in household poverty. How do we help them, particularly if we have sudden and shocking rising energy prices?

Jonathan Brearley: I suppose that, in a sense, is my broad point. We are going to see families under much more financial pressure in general than last year. We are seeing the impacts of inflation on top of that. It is not simply rents and mortgages. It is not like last year where it felt quite concentrated on energy. It is across the board. So I suspect Ministers will want to think more broadly about how they might respond to that.

Q201 **Mark Garnier:** Okay, but it is up to the Government to think of the wider piece. You have to concentrate specifically on energy. Have you put any input into the Government's proposed social tariff? Have you advised on it?



HOUSE OF COMMONS

Jonathan Brearley: We have been working with the Government on all options—including a social tariff, for example.

Q202 **Mark Garnier:** Okay, so you put in your submission?

Jonathan Brearley: Yes, we do.

Q203 **Mark Garnier:** Do they read it? I am just trying to get a sort of sense of what the relationship is between you.

Jonathan Brearley: I would not characterise our relationship as one where we send a submission then they do this—we are a bit more than a consultee in this process. We sit around the table with them, we share our analysis, we attend their boards. They have boards on things like affordability; we are part of that process, and we will give our views ongoing. It is not a case of gathering many, many people's feedback and reading ours among others. I think we have a closer relationship than that.

Mark Garnier: Brilliant, fantastic. Thank you.

Q204 **Chair:** I am glad to hear that you have met the Secretary of State. She was meant to be here today, but for various reasons—perhaps a lack of confidence or not being on top of her brief or whatever—she is not. I am not sure, but we are very disappointed—*[Interruption.]* She has already met with Ofgem, and we were very disappointed.

On the social tariff, Mr Brearley, how big do you think it will be if it is implemented? How many gigawatts or megawatts will be sold at social tariff prices? What fraction of the energy market will it be?

Jonathan Brearley: In a sense, I think we need to step back from all of this. You heard me say that I think we need to look at pricing regulation and what form of pricing regulation is right across the market. We think this is a good time to do that given that the market is changing and we are transitioning back to something more stable.

As part of that, there will be a question: is there a group of customers who need to be subsidised as well as having a cost-reflective tariff applied to them? To be honest, Chair, there is a set of questions that we do not have an answer to now, which include how narrow or broad that group needs to be and who pays for it. Both of those things have interactions with two really important things. One is that—

Q205 **Chair:** Do you even have a ballpark figure on the social tariff? I want to be brief because I have taken Barry Gardiner's place.

Jonathan Brearley: My personal view—this is not an Ofgem view and not something that we are sponsoring—is that certainly, looking at the easy-to-attach markers, such as benefits, would be a good way to apply it.

Q206 **Chair:** Is that about 10%, 5% or 30%?

Jonathan Brearley: Single-digit millions of people would be the rough estimate.



HOUSE OF COMMONS

Q207 **Chair:** What proportion of the energy market would that represent?

Jonathan Brearley: I suggest it would be about 20% or 30%, but to be clear that is not an Ofgem—

Chair: I hear you; that was the best guesstimate from the CEO of Ofgem. That will do.

Q208 **Barry Gardiner:** Mr Churm, welcome. You are a new addition to Ofgem's team; you came in March, I understand, and with a very impressive track record—stress testing of the UK banking system, and the project to deliver and design strategy and composition for the Bank of England's future balance sheet.

When he was talking earlier, the chief executive spoke about the challenges that had caught the Government, Ofgem and the industry off guard last year. You are a troubleshooter, aren't you? You were brought in to sort out the trouble. What did they tell you that your role was when they appointed you? What was the trouble that you had to shoot?

Rohan Churm: When I spoke to Jonathan and others ahead of joining, there had been a lot of thinking and work—the Oxera report was mentioned and there was the NAO report and internal discussions in Ofgem and at GEMA on the direction in which things needed to go. A number of consultations were in flight.

Bringing somebody in with extensive experience of financial markets and regulation could help get those to a decision and lead the new function where we need more people—the Treasury has given us the budget for that. We need to improve our understanding of financial regulation and the financial risks, in this industry and across the board. I am pleased to have the opportunity to do that.

Jonathan Brearley: I should add that Rohan was building on a base led by Cathryn, who did a lot of the work to get us to the first stage of the work that he is taking forward.

Q209 **Barry Gardiner:** But it was trouble that you had got yourself into and that you needed getting out of. How is Ofgem upskilling its workforce, including to support bill payers through the energy crisis?

Jonathan Brearley: I will kick off, but I am going to ask everyone on the panel to comment from their personal perspective.

We have changed and deepened the leadership, including bringing Rohan in. We have massively increased our resources, particularly around compliance and enforcement, and made sure that in doing so we are upskilling the organisation as well as bringing in new resource to carry out the traditional regulatory work.

Part of that is technical skills and part of it is the ability to look forward and see what is coming. Neil's role, on which he is now fully focused, is going to be doing that. But it may be useful for Rohan, Cathryn and Neil to mention what they are doing.



HOUSE OF COMMONS

Cathryn Scott: As Jonathan says, we have greatly increased the amount of resources that we have in compliance and enforcement. We have almost doubled the numbers of people since April '22 and we are looking towards almost tripling by the end of March '24. That allows us to do more cases more quickly.

We have been able to, for example, take more enforcement action and orders to try to nip bad behaviour in the bud rather than doing an ex post long investigation. Jonathan described the E.ON case, where we saw bad behaviour and made an order requiring it to improve things. The company also made a payment.

Q210 **Barry Gardiner:** The payment was—

Cathryn Scott: It was £5 million: £4 million in compensation and £1 million in redress, which goes into our voluntary redress fund to help vulnerable customers generally.

Q211 **Barry Gardiner:** What would that represent as a proportion of its profit?

Neil Kenward: It made a loss that year.

Cathryn Scott: It made a loss. We have the power to fine by reference to turnover. It was a relatively small proportion of its turnover, but it was a significant amount—a lot more than we have imposed in the past.

Q212 **Barry Gardiner:** It is the largest you have ever imposed, isn't it?

Cathryn Scott: Not the largest, no—not on a supplier. Over the last five years, we have had about £390 million worth of fines and redress payments through our enforcement and compliance work. But the new resources are enabling us to expand that and really use our tools to the full.

Jonathan Brearley: To expand on that, our market compliance review found the problem. We responded to it quickly, we fined E.ON and, most importantly, its performance improved as a result.

Cathryn Scott: The whole industry's performance improved as well.

Q213 **Barry Gardiner:** I have no doubt that you watched the previous session of this Committee, when we had all the chief executives before us. You will be aware, Mr Brearley, that I asked them the specific questions that you had put in your consumer standards consultation. How disappointed were you at their responses? Some of them hardly seemed to know what the standards you were consulting on were.

Jonathan Brearley: The industry needs to understand that, right now, energy has been the biggest issue—or one of the top three—for anyone in the country over the past year. If companies do not change their behaviour and do not meet the standards that we set, yes, there is a threat of enforcement action from us—that is important, and we will monitor robustly, using our compliance and enforcement powers if we need to—but ultimately it will come back on them.



HOUSE OF COMMONS

My message to every supplier is simple: we cannot have the same kind of winter for customers this year that we had last year—they need to improve what they are doing. The difference between this year and last year for me is that there was all sorts of turmoil in the market, with many risks that we were managing collectively, but they are not there this winter, so they have run out of excuses.

Q214 **Barry Gardiner:** The consultation that you put in place to sort out the challenges for this winter will conclude in December, won't it?

Neil Kenward: Yes. We are trying to gather the right information on the proposals that we set out. We will then be able to make a decision by the end of the year.

Q215 **Barry Gardiner:** That does not seem early enough to cope with the winter pressures that consumers are going to face. Why have you structured it in a way that is almost guaranteed not to give time enough to get those new standards embedded and in place in those companies so as to make a difference to consumers?

Neil Kenward: We already have a comprehensive set of regulations and rules to protect vulnerable consumers into this winter. The additional standards are, in a sense, that extra layer around—

Q216 **Barry Gardiner:** They did not even know about them. Some of them did—to be absolutely fair, some of them acknowledged them—but it was sort of, “Oh God, yes—that irritant!”

Jonathan Brearley: We will take that back to the companies. We have to have a more constructive relationship with them. We are all bound by the statutory timetables. The truth is, Mr Gardiner, the process of putting regulations in place, by law, takes time. If we do not consult or consult too quickly, that creates a whole different order of stuff to implement—

Q217 **Barry Gardiner:** I am asking you to do it earlier, if you want to make a difference in the winter period. Finally, however, will Ofgem introduce a consumer duty, as is in place in financial services regulation?

Jonathan Brearley: We already have a duty to treat customers fairly. That is a broad, overarching duty, similar to that for the FCA. We are keen to see if there is anything else we can learn from the FCA, which has a principal regulation that is similar to ours.

Q218 **Barry Gardiner:** That sounded like: “We don't need to look at this.”

Jonathan Brearley: We are spending a great deal of time with the FCA, because all of us face the same sets of conditions and we need to make sure that we learn from each other. My main point is that the rulebook on standards is, in my opinion, pretty comprehensive; the issue for me is compliance, enforcement and making sure that companies follow the standards. That is where I think we need to focus.

Mark Pawsey: As a member of the previous Committee, which was very critical of the number of people who were allowed to supply energy and of the lack of check on their resilience, may I say how good it is to see Mr



HOUSE OF COMMONS

Churm in his role? That issue has been discussed, but I want to talk about another one that we dealt with in the previous Committee, which was the role of the price cap.

Many of us accept that the price cap needed to be introduced, because we did not have proper and effective competition in the market. Many of us saw that as a problem. Well, we have perhaps seen rather more effort put in to ensure that we got effective competition than to put in the price cap, but the decision to do it was of course a political one. It is your job to set the price cap. Can you tell us a little about how the inflexibility of the price cap in the previous year or two has caused problems and what the legacy of that is?

Jonathan Brearley: Let us go right back to 2021, when the gas crisis hit. We saw a massive increase in wholesale prices. We had a bunch of companies there that would have gone anyway; they had issued year-long contracts and simply could not honour them, because they had not bought forward at all. That is not really affected by the price cap.

There was a second group that, for reasons that were probably sensible judgments at the time, may have been more financially resilient if they had had the ability to change their prices. The fact is that the price cap kept that price fixed for six months, which meant that the combination of that with the wholesale price change and the fact that we did not have resilient companies in the market made the problem bigger than it would otherwise have been. As a result of that, we said, "Listen: the price is going to have to change more flexibly to adapt to the market", so we halved the time that it takes to change the price cap. That is not a perfect mitigant to that problem.

The problem we have now is that virtually all companies are pricing at the price cap, as we know. It is hard for the price cap to adapt if things change quickly, and that in itself means that we must say to those companies, "You have quite a lot of money in your company to manage through a situation where you have to fix your price and the market changes around you." That is potentially more expensive for customers.

Q219 **Mark Pawsey:** And there was the change to a quarterly review. You could not win, because there were some people who said that that meant that prices changed more regularly, and other people who said that it gave more flexibility and meant that people were closer to paying the true price.

Do we currently have customers on a higher price than they would otherwise have been because the suppliers are having to make up some of the shortfalls that occurred when the price cap kept prices down lower than they would otherwise have been?

Jonathan Brearley: I do not believe that that is the case, because ultimately that has been passed through the accounts, and we only reflect costs that we see today. Where there is an additional cost, we say to companies, "Listen: given that you have to fix your price for three months and the market is potentially incredibly volatile, you have to have enough



HOUSE OF COMMONS

money in the bank that means that even if you have the perfect hedging strategy, you could incur quite big gains and losses.”

If you go back to last winter when we had gas at £6 a therm versus its normal 60p, even if you had hedged really sensibly that could be a massive cost or a massive gain depending on what is happening with demand. What we are saying is genuinely not that the price cap is the wrong answer, but there are alternatives, and we think that they need to be re-examined.

Q220 Mark Pawsey: Since this session is really about how we get through next winter, I do not think that anybody will suggest that the price cap should no longer apply across that period. I want to ask you about the short term, but then perhaps get your thoughts on the longer term once we have gotten out of this difficult position. Where do you see the price cap going across this winter?

Jonathan Brearley: As ever—I know that I have been in front of many Committees with yourself where I have had to say this—it is always really uncertain. Even three months out, projecting the gas price is very difficult. If I had to take a view, we must accept that there is pressure on prices at the moment, so it is possible that we see a rise in January, but it is by no means certain. This will all depend on the winter demand that we have; it will depend on the ability to access liquified national gas, so it could genuinely go either way. Looking at the market today, there is certainly more pressure than there was over the summer.

Q221 Mark Pawsey: Longer term, you said two things. You said that there is competition back in the market, but we have nothing like the competition that we had pre-2018. We have no campaign to encourage people to switch, because you also just said that there is no point in people switching because everybody is pitching their price at the same level. Are you confident that in the longer term, we can get back to the effective market that we originally aspired to get to that means that we would not need a price cap?

Jonathan Brearley: You have to look at the various things that we have done. One of the corollaries of introducing the financial regulation that Rohan is leading is that we are preventing some of the very low tariffs we saw because they are unsustainable; they cost everybody else a lot of money in the long run.

Q222 Mark Pawsey: Can you explain why it costs everybody lots of money, because that is important?

Jonathan Brearley: Because if you go into the market as a company and you price at £800 in a market that ultimately leaps up to £1,500, you go bust. Someone else has to buy your power at the price cap. There is a loss there, and that loss gets socialised across all of us.

Q223 Mark Pawsey: So all the customers have paid because of the fate of these very aggressive companies who were underpricing.



HOUSE OF COMMONS

Jonathan Brearley: Exactly right. I think that the second dimension is that we have done a series of things to stabilise the market, such as the market stabilisation charge, which we should keep under review. We are doing so actively now. Thirdly, with the price cap you have, there is a genuine question of whether, with all the other measures, you will be able to price sufficiently below it. That is why we think that there is a case for looking at this across the board.

We are seeing fixed tariffs return; we are seeing about 20 in the market right now. We are also seeing some very interesting potential new entrants; you will have read in the papers about companies such as Tesla thinking about very different economic models for all of this. But the task for the next year, to my mind, is to make sure that we have the right form of pricing regulation and then make sure that we get back to that competitive and innovative market. That is partly for customers today, but let us not forget that we are going to be in a very different world in five or 10 years' time.

Q224 **Mark Pawsey:** If we get to that competitive market, would you say that there is no longer be a need for the price cap?

Jonathan Brearley: The thing that will always concern us as a regulator is the other part of that problem, which is what happens to those static customers who do not benefit from competition.

Q225 **Mark Pawsey:** Any argument in favour of getting rid of the price cap, or avoiding the price cap, would depend on the social tariff being in place to support those customers who are vulnerable. There are plenty of people who do not change and are happy to pay a slightly higher price because their time is valuable and they do not want to go through the process of changing. We had a Secretary of State who sat in front of us and admitted that he had not changed and had not looked; he recognised that he might be paying more than he would have if he had spent some time looking at the market.

Jonathan Brearley: My view is that all of this needs to be looked at in the round. That is what we would encourage ourselves, the industry and Government to do together.

Q226 **Lloyd Russell-Moyle:** What do you think is more important for consumers: that they always get the cheapest option on the day, or that they have certainty in the long run for what they will need to budget for?

Jonathan Brearley: I think it is highly variable among customers. The way that I think about this is the way we all think about our mortgages: some of us are quite happy to take variable rates and take the risk, but many people want to fix. In this market, I think we need to generate the offers that allow people to match their preferences to what is in the market. I think that that is what is missing now and needs to return.

Q227 **Lloyd Russell-Moyle:** Energy companies and consumer groups told us that removing the standing charge would help the most vulnerable. When we have spoken before, you have talked about running the numbers and



HOUSE OF COMMONS

it not quite looking like that. I am not sure whether you provided those numbers to us, but do you agree with the current structure, where the standing charge is built into the tariff no matter how much or little energy is used? Does that not strongly disincentivise demand reduction?

Jonathan Brearley: Let me start with one thing. I know that there are a number of companies saying that they are uncomfortable with the standing charge; I just need to point out really clearly that they can make fixed-term offers that do not include a standing charge today, so if they are really concerned about it, I would love them to be in the market offering those alternatives to their customers today.

Q228 **Lloyd Russell-Moyle:** Are there any companies that offer no standing charge?

Jonathan Brearley: There are some. There are a small number of tariffs out there that do that already. Having said that, we have to acknowledge that a large number of customers are going to be under the price cap, potentially for some time, and therefore this is a big issue. We acknowledge the concerns that have been raised by consumer groups and by some companies.

When we looked at it last time, we looked at moving a proportion of that charge off the standing charge and on to the volumetric charge. We found that there was a significant subgroup who were made significantly worse off because they are low-income and simply use more energy than others. There is always going to be a difficult set of trade-offs here. We also have to acknowledge that the other part of Ofgem is planning a huge infrastructure investment over the next years. We know that we need to build more network, so—

Q229 **Lloyd Russell-Moyle:** There are two things there that I want to explore. Out of the subgroup who you say use significantly more, are there no other metrics that they can be caught up in, in terms of the discussion that we have had about a social tariff?

Jonathan Brearley: I think it might be possible to target them in different ways, but some of the drivers are very different. Some of it is about poorly insulated housing, for example, and larger families, and some of it is about the need for disabled members of a household to have access to the support that they need. There are potentially ways in which you could do it.

Q230 **Lloyd Russell-Moyle:** One would assume that with disabled members, with illness and with any of those things, it would be relatively easy to find a way around, because there are disability-support schemes in place. But what about that first group that you mentioned: people who live with large families in big houses that are poorly insulated, or maybe even rented houses that they cannot insulate? Is allowing them to continue to use large amounts of energy, without providing any support or incentives to insulate the house, the right thing? Is that not what we are doing by having a high standing charge for them?



HOUSE OF COMMONS

Jonathan Brearley: I suppose my view is that if there is a series of measures around the families we are concerned about, as part of the discussion about tariffs and as part of an energy efficiency strategy, we are very interested in having that conversation with Government to adapt.

Q231 **Lloyd Russell-Moyle:** Have you done some of that modelling? There was a discussion in which you gave your personal opinion and not the opinion of Ofgem, but has Ofgem done or is it planning to do some modelling of how those people could be identified within those wider pieces of packaging? Or are you saying, "Someone needs to do it, but we don't know who"?

Jonathan Brearley: What we can do is come back to this Committee with a detailed distributional breakdown of how all this works. We have what we call customer archetypes, where there are customers in different groups and we analyse different pricing changes and the impacts on those groups.

I want to say one last thing before we finish on standing charges. We do believe that we have the right position, but we have to acknowledge how things are changing over time. This is not the end of the network build that we have. We want to have an open and constructive conversation with the industry and consumer groups on this position and whether it is right. We will be coming forward soon to make sure that that happens.

Q232 **Lloyd Russell-Moyle:** Can you explain to us how the standing charges are calculated?

Jonathan Brearley: I am very happy to hand over to my colleague on that.

Neil Kenward: It reflects a number of things, both on the electricity bill and the gas bill. What we have been trying to do is capture the elements of energy provision that are fixed. About half the costs across both those bills are operating costs. For every customer a company has, there is the cost of the billing, running the meter and so on; that is about half of it. About a third of it is the electricity network costs, which are recovered primarily through a fixed charge on consumers. Then there is another small amount—the remainder—which is a mix of things but includes a few policy costs. It is a range of things.

Lloyd Russell-Moyle: Most people would expect the cost of billing to be included in the usage charge. If it goes to a standing charge, people understand that it pays for the pipe or—

Mark Pawsey: Cable.

Q233 **Lloyd Russell-Moyle:** Cable—thank you. I mean the infrastructure that comes into the house. Is the problem not that it is basically a get-out clause for companies to offload operational costs on to the standing charge? You said it was about a third of it, didn't you?

Neil Kenward: It is about half. We obviously do review our operating costs, and we are going to do a fresh review. That is to ensure that the



HOUSE OF COMMONS

number in the price cap is an accurate reflection of what an efficient company needs to charge to recover its costs. But if you look at it from a company's perspective, if a customer has a £10 annual bill or a £10,000 energy bill, there are still the same costs for contact, billing and so on.

Q234 Lloyd Russell-Moyle: Let me be clear. The standing charge is not in the price cap?

Jonathan Brearley: The standing charge in the price cap is made up of operating costs, network costs and policy costs. We are already reviewing operating costs.

Q235 Lloyd Russell-Moyle: If a company said, "We think it is wrong to charge the standing charge for our operation costs, but we will continue to charge it for the costs we have to pass on—policy measures and the DNOs and the grid," could they do that?

Neil Kenward: Exactly as Jonathan was explaining earlier, they could offer a new tariff on the market that has a lower standing charge. They could then choose to recover those costs through a volumetric charge across their customers. That is an option.

Jonathan Brearley: Can I jump in on two points? First, we seem to have got into a position where companies say, "This is Ofgem's job to decide." They can issue any tariff they like outside the price cap that is not a standard variable rate. They can make these changes.

Q236 Chair: But haven't you set the structure? You have given the market a nudge or signal that makes it dump certain costs on the standing charge. The boss of Octopus—I think it was Octopus; I am roughly paraphrasing what he said on Radio 4's "World at One" a fortnight ago—said that it was really Ofgem that had set these prices on the standing charge as opposed to the unit price, and that Ofgem had a big responsibility for that.

Is there any link in your mind between what the unit price should be and what the standing charge should be, other than that they are meant to be independent of each other? We are talking about vulnerable people, maybe with motor neurone disease—that is a minority, but there is a large group of people who are poor and are being hit by this current structure. I am sure you are aware of it.

Jonathan Brearley: When we looked at this last time, it did make a broader group slightly better off, but it made a still significant group worse off. I have two points on this. First, in the price cap we set the standing charge, but if you want to issue a tariff without a standing charge, that is not something that Ofgem—

Lloyd Russell-Moyle: But the customers—

Jonathan Brearley: There is one other point, just before I hand back: we do see the case for examining this. We do feel that given the changes that are coming forward, this is something we want to worry about.

Q237 Chair: So we could see a change to the standing charge unit price



HOUSE OF COMMONS

balance.

Jonathan Brearley: Yes, we could.

Q238 **Lloyd Russell-Moyle:** At the moment, for their protection, customers want to go for a tariff that has the price cap guarantee. Very few customers are going out of that. Commercial customers are sometimes forced out of it, and we have seen the difficulty of that. What you are saying is that if customers want not to have a standing charge, they have to waive their rights to the protection of the price cap.

Jonathan Brearley: There is some flexibility within the price cap. Utilita, for example, has a tariff that does not have a standing charge, but it does charge more for a smaller proportion of your volume.

Q239 **Lloyd Russell-Moyle:** Why can't you direct companies that the standing charge must be for physical infrastructure and Government policy only, and they cannot offload your operational costs on it? Why can't you do that?

Jonathan Brearley: I think we are saying that we are open to examining that. The main point is that what we cannot do—

Q240 **Lloyd Russell-Moyle:** What is the timeline for you to examine that and come back to us?

Jonathan Brearley: We will have to come back to you with a timeline, but it is something that we are keen to look at. The point I am trying to make is—

Lloyd Russell-Moyle: I think we would like that timeline, because that is what we are interested in.

Chair: Talking of timelines, we are struggling on time.

Lloyd Russell-Moyle: I know: that's why I was rushing.

Q241 **Barry Gardiner:** I want to piggyback off what Lloyd has said very well, and ask about the rising block tariff. Again, this is something that we have looked at over a long period.

In terms of polluter pays, and in terms of ensuring that there is an incentive for people to use less energy and to insulate their homes, a rising block tariff—where a normal family would have the lowest per-unit cost, while somebody with a swimming pool and a home cinema would be paying what you and I might consider a pretty exorbitant per-unit cost—is exactly where we should want to get to, isn't it?

Yet Ofgem has constantly resisted a rising block tariff. You have always put forward the same argument: "Oh, but what about the person on a kidney dialysis machine?" Of course they should be dealt with in another way. There are mechanisms for dealing with those small groups, but you never acknowledge it.

Jonathan Brearley: The point I would make is very simple: now is the time to have a big debate about pricing regulation. The structure of the price cap is not something that we could use to create a rising block tariff,



HOUSE OF COMMONS

for example. We should have that discussion with Government and with the industry.

Barry Gardiner: That was almost a yes.

Chair: It's a good answer—take it!

Q242 **Vicky Ford:** I just want to get across the urgency of this. This review we are doing is about preparing for this winter, and there are less than 100 days till Christmas. I want you to be walking out of this room with double urgency. You said something about LNG access being key to this winter. Have we got enough gas storage? If not, is there anything that the industry could do within the next 100 days, or that this Committee could recommend within the next 100 days, to affect that?

Jonathan Brearley: When you look at all the different ways we get gas, the situation is certainly far more stable than it was last year.

Vicky Ford: Good.

Jonathan Brearley: In a sense, what really matters is how much storage Europe has as a whole, because we are quite connected to Europe to buy and sell energy. The fact that Germany has introduced new LNG terminals makes the situation easier on a macro level, so I do not think we are in the same situation as we were last winter.

Frankly, though, all that needs to be done is being done, and I am not sure there is much more we could do at this stage, because it usually involves very big infrastructure changes. Do I feel as concerned as last year? No, but I think we are at a point where now we are managing and mitigating.

Vicky Ford: In the conversation about tariffs, there is an urgency to saying, "We need to reward people for the good behaviour of being efficient in their homes and investing in energy efficiency and so on." How do we make that work? How is it working in other countries, and how do we deliver it without forcing more people into fuel poverty?

Chair: We will keep that one hanging there.

Q243 **Sir Mark Hendrick:** I want to revisit what Lloyd was saying about the standing charge. Consumers who are suffering because of the cost of living crisis want to use as little as possible, or as little as they need, to be able to budget. But if firms are offloading their per-unit price of energy on to the standing charge, is that not a disincentive for people to save? You are actually trying to get them to use more energy, and the more energy they use the larger your profits will be. Your headline per-unit price might seem attractive, but they are being hammered on the standing charge.

Jonathan Brearley: What we are trying to do with the price cap is fairly reflect the costs that are there. The standing charge covers the costs that we think are fixed per customer, with unit charges for all the variable



HOUSE OF COMMONS

costs. But as I say, given all the changes that we are seeing, it is something that we want to examine—and we do cap that.

Q244 **Sir Mark Hendrick:** You have admitted yourself that genuine competition has gone out of the market with the price cap because everybody is charging that or thereabouts, so is that not an artificial argument?

Jonathan Brearley: The point is that you have to set a fixed cost in the industry. Pipes and wires are part of it; operating costs are part of it. The question we need to answer collectively is how we best allocate those across customers. What we do currently is try to reflect the economics of the companies in the way the bill is charged. But as I say, we think this is something that we should lift up, partly because with the big infrastructure coming, this is a problem that we will need to focus on.

Q245 **Chair:** To bring the session to a close, I want to go back to a point that you touched on with Mr Garnier. You mentioned the energy bills support scheme, which you were responsible for administering. You will be well aware that BBC Radio 4's "Money Box" has put quite the magnifying glass on this. Of the 900,000 people eligible for the scheme, 141,000 got it and 750,000 missed out. It is quite a staggering figure for the scheme you administer.

Do you think the Government should be relaunching the scheme or doubling up for this coming winter for the 750,000 who missed out? We know that there is energy debt going forward accrued from last winter, and a lot of that energy debt is in the area of the 750,000 that missed out last winter on the £400.

Jonathan Brearley: To be clear, we administer what goes through the companies. For some people off the grid, there are different ways in which the Government have tried to get the money to those customers. It is a matter for them whether or not they reopen the scheme for those customers that missed out.

Q246 **Chair:** We would ask the Secretary of State to answer that herself if she were here. She is not, but you are round the table discussing these things, and you know the groups that have missed out. Will you urge her to relaunch the scheme?

Jonathan Brearley: My view is that we need to focus on the needs of vulnerable customers this winter in general. It is not my place to tell them what they do specifically with this scheme.

Q247 **Chair:** Round the table, if she asked whether it would be a good idea, would you say it was or wasn't?

Jonathan Brearley: As I say, my main focus is on making sure we look after customers this winter across the board.

Q248 **Barry Gardiner:** Would you point out to the Government the failings of the scheme last winter and recommend ways in which they might mitigate those failings this year?



HOUSE OF COMMONS

Jonathan Brearley: I think we all have to recognise that there are a group of households to whom it is very difficult to get support like this. There are many ways we can improve it, including the way we publicise what we do and the way we get access to customers, which of course we should be building on—but ultimately, as I say, my focus is on what customers need this winter.

Q249 **Chair:** When you are targeting 900,000 who are eligible, and 750,000 are missing out, it could be done an awful lot better, couldn't it?

Jonathan Brearley: That is a matter for Ministers. I am sure that at some point the Secretary of State will be able to answer that question.

Chair: The Secretary of State will be well aware that that question is coming her way when she comes to see us.

Thank you, Mr Brearley and your colleagues at Ofgem, for coming along this morning. We have overshot a little, but we hope we have not interrupted your day too much. MPs from Uruguay with an energy interest are in the House of Commons today and we shall be meeting them shortly, so I apologise for our rushing off, but thank you all.