House of Commons

Business, Energy and Industrial Strategy Committee

Energy pricing and the future of the energy market: Responses to the Committee's Third Report of Session 2022-23

Second Special Report of Session 2022–23

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Business, Energy and Industrial Strategy Committee

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Second Special Report

The Business, Energy and Industrial Strategy Committee published its Third Report of Session 2022–23, Energy pricing and the future of the energy market (HC 236) on 26 July 2022. Responses have been received from the Department for Business, Energy and Industrial Strategy (BEIS) on 3 October 2022 and from Ofgem on 6 October 2022. The responses are appended to this report. The Committee's recommendations are in ***bold Italic*** type. The responses from BEIS and Ofgem are in plain type.

Appendix 1: Response from the Department for Business, Energy and Industrial Strategy

Letter from the Minister of State for Climate, 3 October 2022

I welcome the BEIS Committee's review of energy pricing and the future of the energy market and attach a full response to the recommendations.

Despite the unprecedented volatility and price increases in the energy market, the Government's priority has been to support vulnerable consumers with their energy bills. Under recent plans published on 8th September 2022, the Government has announced an Energy Price Guarantee for families and businesses. A typical UK household will now pay, on average, no more than £2,500 a year on their energy bill for the next two years. This will save the average household at least £1,000 a year based on current energy prices from October 2022 and is in addition to the £400 energy bills discount for all households. A new six-month scheme will also be in place to offer equivalent support to businesses and other non-domestic energy users.

This latest support is in addition to the £37 billion package of support announced earlier this year to help households with cost of living, targeting the most vulnerable households.

We recognise that urgent regulatory reforms are needed to address the previous shortfalls seen in the energy market. We are continuing to work with Ofgem, the energy regulator, to ensure improved and robust regulation, alongside our commitment to aligning our future energy retail market strategy with our net zero targets. The Government has also announced it will consider undertaking fundamental reforms to the structure and regulation of the energy market through recommendations from a new review of UK Energy Regulation.

We have set up a new Energy Supply Taskforce responsible for agreeing long-term contracts with domestic and international suppliers so as to secure lower prices and increase energy security. The Taskforce and BEIS will negotiate with renewable producers to reduce the prices they charge as well. Additionally, HM Treasury is announcing a joint scheme, working with the Bank of England, to address the extraordinary liquidity requirements faced by energy firms operating in UK wholesale gas and electricity markets.

Energy affordability remains a priority for the Government as does stability in the energy retail market.

I look forward to ongoing constructive engagement with the Select Committee on this and other matters.

The Rt Hon Graham Stuart MP

Minister of State for Climate

Recommendations and responses

1. ***We recommend that the Government urgently sets up a cross-departmental taskforce, like the Brexit taskforce, to respond to the energy price crisis and wider cost-of-living. This taskforce should meet regularly to support Ofgem and other arms of the Government to do the work necessary to provide the best possible outcomes for consumers and stabilise the energy supply market.*** (Paragraph 221)

The government has set out decisive action to support people and businesses with their energy bills and tackle the root causes of the issues in the UK energy market through increased supply – ensuring the country is not left in the same position again.

On the 8 September Government announced that from 1st October, a new 'Energy Price Guarantee' which will mean a typical UK household will now pay, on average, no more than £2,500 a year on their energy bill for the next two years. This is automatic and applies to all households, with an equivalent level of support made available to households in Northern Ireland as in Great Britain. This will save the average household £1,000 a year based on current energy prices from October and is in addition to the £400 energy bills discount for all households.

Through a new government Energy Bill Relief Scheme, the government will provide a discount on wholesale gas and electricity prices for all non-domestic customers (including all UK businesses, the voluntary sector like charities and the public sector such as schools and hospitals) whose current gas and electricity prices have been significantly inflated in light of global energy prices. This support will be equivalent to the Energy Price Guarantee put in place for households.

It will apply to fixed contracts agreed on or after 1 April 2022, as well as to deemed, variable and flexible tariffs and contracts. It will apply to energy usage from 1 October 2022 to 31 March 2023, running for an initial 6-month period for all non-domestic energy users. The savings will be first seen in October bills, which are typically received in November.

As with the Energy Price Guarantee for households, customers do not need to take action or apply to the scheme to access the support. Support (in the form of a p/kWh discount) will automatically be applied to bills.

Whilst the intervention is being funded by Government, action is being taken to reduce the cost over time. To deliver this Government is creating a new Energy Supply Taskforce to negotiate with domestic and international suppliers on long term contracts. The Bank of England will be working with HMT to address liquidity issues faced by energy firms and work is continuing to accelerate our domestic energy supply and increase our energy resilience by making UK an energy exporter by 2040.

This latest support is in addition to the £37 billion package of support announced earlier this year to help households with cost of living, targeting the most vulnerable households. That support includes a £11.7 billion Energy Bills Support Scheme, worth up to £400 each for around 29 million households. In addition, targeted support includes:

- More than 8 million households on means tested benefits who will receive a payment of £650.
- Over 8 million pensioner households who receive the Winter fuel Payment will also receive a £300 Cost of Living Payment.
- Six million households who receive disability support will receive £150 Disability Cost of Living Payment
- Warm Home Discount, providing a one-off payment of £150 this November.
- The Cold Weather Payment, which is a £25 payment for vulnerable households on qualifying benefits, is also available to help with the cost of bills when the weather is or expected to be unusually cold.
- A £144 million discretionary fund for local authorities to distribute to those identified as in need. The Government has already announced a package of support that will see eight million of the most vulnerable households receive £1200 of one-off support to help with the cost of living, with all domestic electricity customers receiving at least £400.

2. ***We call on the administrators of Avro Energy to request that the Insolvency Service consider bringing action against the former Directors of Avro Energy specifically and to update us on what, if any action, can be taken to recover customers' money.*** (Paragraph 56)

In all administrations, the administrator is under a statutory obligation to prepare a report about the conduct of the directors prior to the administration. This report must be submitted through the Director Conduct Reporting Service managed by the Insolvency Service within 3 months of the entry into administration. Where a director's conduct makes them unfit to be a director of a company and it is expedient in the public interest to do so, the Insolvency Service, on behalf of the Secretary of State, can seek an order from the court disqualifying a director from acting as such for up to 15 years. Separate criminal investigations may also be undertaken where evidence of criminality is uncovered.

Compensation may be sought from the directors of a company following a successful disqualification where it can be identified that the director's misconduct has caused losses to creditors. Payment of compensation from a director is sought by way of disqualification compensation order from the court. This compensation can be for the benefit of a specific creditor or class of creditors or a contribution to the company's assets. As with disqualification, compensation can be obtained from a director by way of an undertaking in lieu of a court order.

The Insolvency Service can confirm that a conduct report was submitted by the administrators of Avro Energy Ltd in accordance with their statutory obligations. As the contents are confidential, no further comment can be made on the report which the

Insolvency Service will consider, along with any other relevant information, when deciding whether it is appropriate to seek disqualification and compensation orders against any of the directors of Avro Energy Ltd.

Additionally—and separate from the Secretary of State's power to seek disqualification and compensation orders against directors—insolvency office-holders, such as administrators, have powerful tools to clawback funds that have been inappropriately removed from a company prior to its insolvency. Where a particular creditor has been paid its debt in preference to other creditors, or where an asset has been sold for significantly less than its value, the office-holder may apply to the court to seek to reverse the transaction. Where directors have continued to trade a company with the knowledge that there was no reasonable prospect that it could avoid insolvent administration—what is known as 'wrongful trading' —administrators may take action against them to recover the additional losses caused by wrongfully trading.

The administrators of Avro Energy Ltd have informed the Insolvency Service that their investigations into legal claims that may be brought in the interests of creditors continue. These matters are ongoing, active and confidential.

3. ***We further call on the Government to review whether regulators such as Ofgem should be given new powers to bring enforcement action for unfit conduct by energy company directors given the very limited scope for The Insolvency Service to do so. We consider this to be particularly important for energy supply companies given the handling of customer monies and the importance of security of supply.*** (Paragraph 57)

BEIS maintains a regular dialogue with Ofgem to review lessons learned and understand where policies can be enhanced to improve outcomes. It is crucial that any energy company directors who have engaged in unfit conduct are held to account by the relevant authorities. We will continue to work with Ofgem and relevant bodies to understand if there are any gaps within the current regime which prevent unfit conduct by energy company directors being appropriately addressed.

The UK benefits from a strong enforcement regime, where corporate misconduct is tackled robustly. The Insolvency Service has broad enforcement powers to tackle director misconduct, which can lead to disqualification action or criminal prosecution. These powers extend across all UK business sectors. Any disqualification will prevent the individual from acting as a director or being otherwise involved in the management of a company across the whole economy, not just the sector where the failed company operated. These powers do not only relate to insolvent companies; disqualifications can be obtained in respect of directors of live companies where investigations indicate misconduct.

As at 31/3/22, there were over 6,500 individuals with active disqualifications against their name.

4. ***We require Ofgem to start regularly and proactively reporting to the Department on how it is meeting its duties and to inform Ministers of any risks associated with the delivery of Government strategy. We ask the Department and Ofgem to review, update and publish a new Framework Document within six months of the date of this report.*** (Paragraph 65)

Ofgem has recognised how its regulatory approach over the latest 18 months has contributed to supplier failure and the related issues within the energy supply market and is taking active efforts to ensure that the supply market is more robust going forward to ensure we don't see a repeat of the recent issues. This includes through commissioning an independent review into the root causes of the recent supplier failures and specifically, into how regulation of the industry played a part.

Additionally, on 8 September, the government announced it will consider undertaking fundamental reforms to the structure and regulation of the energy market through recommendations from a new Review of UK Energy Regulation.

BEIS does not have a formal role in addressing Ofgem's performance; Ofgem instead answers directly to Parliament for the performance of its statutory duties. However, Ofgem and BEIS provide quarterly reports to BEIS' Performance & Risk (P&R) Committee, a delegated committee of BEIS' Executive Committee. The P&R Committee scrutinises Ofgem's performance and delivery of programme and policy commitments.

BEIS and Ofgem also regularly engage at both a senior and working level to work towards common objectives and be alert to risks. These engagements include, but are not limited to, frequent meetings between Ofgem and the Secretary of State, and meetings between Ofgem and the Director General for Energy & Security.

BEIS is currently working with Ofgem to review and update the joint BEIS-Ofgem framework document. This will be done in line with Managing Public Money guidance, and we intend to publish this in due course.

5. ***We recommend that the Government urgently publishes its long-delayed Strategy and Policy Statement for Ofgem to guide the regulator on how to manage the political and distributional trade-offs intrinsic to its responsibilities and clarify the split of responsibilities between Ofgem and BEIS.*** (Paragraph 66)

On 8 September, the government announced it will consider undertaking fundamental reforms to the structure and regulation of the energy market through recommendations from a new Review of UK Energy Regulation. The Strategy and Policy Statement (SPS) will subsequently be taken forward following the Review of UK Energy Regulation to ensure that the SPS can take account of the lessons learned from the review.

The SPS will be designated in accordance with the Energy Act 2013 and will set out:

(1) the strategic priorities, and other main considerations, of His Majesty's government in formulating its energy policy for Great Britain;

(2) the particular outcomes to be achieved as a result of the implementation of that policy, and

(3) the roles and responsibilities of persons (including the Secretary of State and Ofgem) who are involved in implementing that policy or who have other functions that are affected by it.

6. ***We recommend that the Government and Ofgem reform the Supplier of Last Resort process so that the costs are more fairly recouped whether through general taxation or energy bills.*** (Paragraph 77)

So far this year, the Supplier of Last Resort (SoLR) costs to be recovered from consumers exceeded £1bn, equating to a fixed charge of around £34 per household. These costs are recovered from consumers on a fixed basis, via the standing charge. In July, Ofgem launched a review of how the costs of supplier failure are recovered from electricity consumers – specifically to ascertain whether the existing fixed charge continues to be appropriate, or if a usage-based (volumetric) alternative would be a more suitable way to recover these costs. The review concluded that Ofgem should not change the current arrangements to a volumetric alternative in light of the evidence gathered. Overall, the review showed that recovering supplier failure costs through unit rates may lead to small reductions in bills for some low-income consumers, however, these savings are relatively small in the context of overall bills and would be at the cost of increasing charges for some high consuming customers many of whom are vulnerable. As a result, Ofgem has concluded not to change how SOLR costs are recovered and stakeholder feedback from a wide range of charities, consumer groups and industry representatives overall supported the status quo.

The SOLR process is a matter for the independent regulator. BEIS maintains a regular dialogue with Ofgem to review lessons learned and understand where processes can be enhanced to improve outcomes.

7. ***We support the National Audit Office's recommendation that the Government and Ofgem review and subsequently update the Supplier of Last Resort process to address the problems that arose over the last year, including delays in the transfer of customer information by administrators which prevented the retrieval of credit balances, the treatment of customers in debt, and the imbalance of risk between customers and suppliers.*** (Paragraph 86)

To date, Ofgem has successfully run Supplier of Last Resort (SoLR) processes for 30 suppliers that have failed since August 2021 and ensured continuity of supply for over 1.8 million customers.

The SOLR process is a matter for the independent regulator. BEIS maintains a regular dialogue with Ofgem to review lessons learned and understand where processes can be enhanced to improve outcomes.

It is crucial that consumers are protected and should not be footing the bill for poor business practices. Further measures are being put in place to reduce the costs to consumers arising from supplier failure. Ofgem has developed proposals to ringfence consumer credit balances and renewables obligation payments, which is an important first step. Ofgem has also consulted on measures to preserve the value of existing hedges when a supplier fails. We support actions Ofgem is taking to minimise supplier failure costs through the existing framework and will continue to work together to identify further opportunities to limit these costs where appropriate.

8. ***We recommend that the Government implements a hedging strategy at Bulb Energy. In the meantime, we ask that the Government provides us with detailed analysis of the cost implications for BEIS and the taxpayer of its decision not to purchase hedges to date.*** (Paragraph 95)

The power purchasing strategy employed by the joint energy administrators has been scrutinised by both BEIS and HMT and is consistent with Managing Public Money guidance.

The strategy is kept under close and constant review in the context of market developments. As this analysis is confidential and sensitive, it will not be included in the government response.

9. ***We recommend that, given the size of Bulb, the costs of the Special Administration Regime are paid through general taxation, as opposed to recouping the costs from already stretched energy bills. The Government should undertake a review of the Special Administration Regime to consider how to reduce the cost exposure to the taxpayer in future, and report to this Committee within the next six months on the lessons learned and any required reforms. We suggest, as a minimum, that the Treasury guidance is amended to make it clear that energy suppliers in the Special Administration Regime are presumed to be permitted to hedge.*** (Paragraph 96)

The Special Administration Regime for energy supply, like similar regimes in other sectors, is set out in statute. Those regimes have worked well in ensuring that vital services are maintained and, like any insolvency process, administration costs are kept to a minimum. On that basis the Government does not intend to review the Special Administrative Regime, but we are of course taking on board the lessons learned from the administration of Bulb to inform policy and practice going forward.

Our top priority is always to ensure customers do not experience any interruption to their supply and that their credit balances are protected.

We will always work to minimise any cost to the exchequer. The Special Administration legislation enables the Government to recover any shortfall to the exchequer via the shortfall mechanism placed on suppliers. It is the Government's intention that any shortfall will be recovered in this way, but the timing of when that recovery begins, and the period over which the shortfall is recovered, are decisions that will be taken in due course, and in light of all relevant factors at that time.

We set out the position on hedging in reply to Paragraph 8 above.

10. ***We recommend that the Government brings forward legislation to increase the frequency of Renewables Obligation payment deadlines. The Government and Ofgem should work together to implement this change in a way that provides a suitable period of adjustment for suppliers.*** (Paragraph 123)

BEIS acknowledges that responses to the 2021 joint BEIS/Ofgem consultation [https://www.gov.uk/government/consultations/renewables-obligation-ro-addressing-electricity-supplier-payment-default-under-the-ro-scheme] indicated a preference for addressing supplier payment default through a requirement for suppliers to settle their obligation more frequently than the current annual arrangement. However, responses to that consultation were in many cases conflicting. There were some concerns about negative effects on some suppliers and there was also support for Ofgem introducing measures via the supplier licence. Some respondents showed support for a combination of a legislative and licenced-based approach, or for continuing unchanged with existing policy. In addition, since the launch of the consultation in August 2021, the energy market had changed significantly, with many suppliers exiting the market following a spike in gas prices. As the market had changed so much, BEIS needed to take time to consider the wide range of complex issues affecting the market and to consider the Renewables Obligation scheme in the round.

BEIS did not consider that immediate action to introduce a legislative requirement for more frequent settlement was the right approach. Without careful design, it could have had unintended consequences, such as restricting competition in the supply market or adversely impacting the support received by generators. BEIS believes that a more fundamental change to a fixed price certificates system may offer a better solution. Under the envisaged system, generators would receive more frequent payments for their certificates from a newly established certificate purchasing body. In turn, this would require suppliers to make more frequent payments to the purchasing body to cover the cost of the scheme. However, completely changing the Renewables Obligation scheme to fixed price certificates is not a simple or quick task. To commence this work, BEIS intends to seek industry's views on the new fixed price certificate system later this year.

11. ***We call on the Government to consider the introduction of a social tariff for the most vulnerable customers and a relative tariff for the rest of the market, to be introduced once wholesale energy prices have stabilised. We ask the Government and Ofgem to report its findings on the above issues within nine months of the date of this report.*** (Paragraph 143)

The Government is introducing the Energy Price Guarantee to protect households from the spiralling costs of energy. The Guarantee will ensure that a typical household in Great Britain pays an average £2,500 a year on their energy bill, for the next 2 years, from 1 October 2022. Equivalent support will be provided in Northern Ireland.

The Energy Price Guarantee is on top of the existing policies government has in place to protect vulnerable consumers and ensure those who need it, receive additional support.

Government will consider how price protection needs to evolve as the energy system changes to ensure that households benefit from new technologies, tariffs, and business models. Government will set out next steps on the future of the retail market in due course.

12. ***We recommend that the Government brings forward regulation of third-party intermediaries. Regulations should ensure that third-party intermediaries encourage customers to switch not just on price, but also on customer service standards and other factors. The regulations should also ensure that third-party intermediaries are transparent about the services offered and the suppliers that they work with, provide an explanation of remuneration and access to advice and redress for customers. The regulations need to be future proofed for the significant role that third-party intermediaries are expected to play in the transition to net zero.*** (Paragraph 152)

The government recognises that there are potential risks to consumers from the activities of third-party intermediaries ("TPIs") operating outside the scope of the current regulatory framework. Government published a call for evidence in August 2021 to determine whether further regulatory intervention was required. The call for evidence focussed on the most commonly used TPIs, which typically help customers to switch suppliers, such as price comparison websites, auto-switching services and non-domestic brokers.

We are considering the responses to the call for evidence, whilst also assessing the impact of recent market events, including to the role of TPIs in the future retail market. The government will set out next steps on the future of the retail market in due course.

Ofgem has separately administered the Confidence Code, a voluntary accreditation scheme for domestic price comparison websites, since 2013. The Confidence Code includes requirements on complaints handling and commission arrangements. Ofgem has also implemented a package of reforms following its Microbusiness Strategic Review. These measures will take effect from October 2022 and include requirements on suppliers, in respect of their microbusiness customers, to only work with energy brokers signed up to a qualifying alternative dispute resolution scheme, and to improve the transparency around brokerage costs.

Load controllers were also included within the scope of the call for evidence. The government issued a consultation in July 2022, which set out a broad overview of how the government intends to establish a proportionate and flexible licensing framework for organisations providing demand side response to domestic and small non-domestic consumers. It also sets out proposals to bring organisations providing large load control services into the scope of cyber security regulations.

13. ***The Department and Ofgem must urgently update the Energy Retail Market Strategy so that the supplier retail market aligns with our net zero target; this must include interim milestones and high-level principles about the role suppliers will play in achieving net zero.*** (Paragraph 162)

As the main interface between consumers and the energy system, the retail market will play a crucial role in enabling the transition to a net zero system, and ensure consumers are able to benefit from this transformation.

The government will set out next steps on the future of the retail market in due course.

14. ***In order to deliver the Government's target of a zero carbon electricity system by 2035, we further recommend that greater consideration is given to smart tariffs in the revised Energy Retail Market Strategy. Specifically, we ask the Government to consider how time of use tariffs can be supported while the necessary system reforms are being carried out. Consideration should also be given as to how to support the energy supplier market in engaging different customer groups in net zero and ensure sufficient protections are in place for vulnerable customers.*** (Paragraph 163)

Government's Smart Systems and Flexibility Plan 2021 included a commitment to address barriers that could prevent consumers from making informed choices in switching to a smart tariff. We want all consumers to be offered a range of tariffs that reward them for providing demand side flexibility, and remain committed to removing the barriers to their uptake. To this end, in July 2022, the Government set out a number of proposals that aim to ensure consumers and the electricity system are protected, and to develop a competitive market for energy smart appliances and demand side response.

The future retail market must work for consumers, and we recognise that sufficient protections will need to be in place for the vulnerable and those who cannot shift their energy consumption away from peak times. However, our expectation is that by enabling the energy system to operate more flexibly and efficiently, costs should fall for all consumers. The government will set out next steps on the future of the retail market in due course.

15. ***We urge the Government to provide an immediate and better targeted update to its support package that aligns with the expected scale of price increases.*** (Paragraph 170)

On 8 September the Prime Minister announced the Energy Price Guarantee to help households stay warm this winter. The Energy Price Guarantee will limit the amount you can be charged for each unit of gas and electricity you use in your home. The Energy Price Guarantee will apply from 1 October and ensure that a typical household in Great Britain pays, on average, no more than £2,500 a year on their energy bill, for the next 2 years. Equivalent support will be provided in Northern Ireland.

This is on top of the £37 billion package of support to help households with cost of living, targeting the most vulnerable households. This includes a £11.7 billion Energy Bills Support Scheme, worth up to £400 each for around 29 million households. In addition, targeted support includes:

- More than 8 million households on means tested benefits who will receive a payment of £650.
- Over 8 million pensioner households who receive the Winter Fuel Payment will also receive a £300 Cost of Living Payment.
- Six million households who receive disability support will receive £150 Disability Cost of Living Payment.
- A £144 million discretionary fund for local authorities to distribute to those identified as in need.

This is alongside existing support for the most vulnerable, including the Winter Fuel Payment, worth up to £300 and the Warm Home Discount, providing a one-off payment of £150 this November. The Cold Weather Payment, which is a £25 payment for vulnerable households on qualifying benefits, is also available to help with the cost of bills when the weather is, or expected to be, unusually cold.

On 21 September details of a new government Energy Bill Relief Scheme were announced. The government will provide a discount on wholesale gas and electricity prices for all non-domestic customers (including all UK businesses, the voluntary sector like charities and the public sector such as schools and hospitals) whose current gas and electricity prices have been significantly inflated in light of global energy prices. This support will be equivalent to the Energy Price Guarantee put in place for households.

It will apply to fixed contracts agreed on or after 1 April 2022, as well as to deemed, variable and flexible tariffs and contracts. It will apply to energy usage from 1 October 2022 to 31 March 2023, running for an initial 6-month period for all non-domestic energy users. The savings will be first seen in October bills, which are typically received in November.

As with the Energy Price Guarantee for households, customers do not need to take action or apply to the scheme to access the support. Support (in the form of a p/kWh discount) will automatically be applied to bills.

Longer term, we must continue to decarbonise and increase our energy security which will in turn reduce bills and shield consumers from volatile fossil fuel markets. The British Energy Security Strategy sets out our plan to reduce the UK's reliance on expensive fossil fuels, and boosting our diverse sources of homegrown energy for greater energy security in the long-term. This includes investing in the energy transition.

For example, we have recently awarded Contracts for Difference to a record 93 new renewable energy projects, which will total almost 11GW of new generating capacity for Great Britain – enough to generate sufficient electricity to power around 12 million homes. The Contracts for Difference scheme has contributed to the price per unit (MWh) of electricity generated by offshore wind falling by almost 70% between the first Contracts for Difference auction in 2015 and the fourth in 2022.

16. ***We recommend that the Government ensures there are sufficient safeguards in place for tenants to benefit from the Energy Bills Support Scheme. We recommend that the Government pays the scheme via a negative standing charge to mitigate the risk of prepayment customers not redeeming their vouchers and to ensure it reduces the costs of energy for customers in debt.*** (Paragraph 174)

Landlords who have a domestic electricity contract with a licensed electricity supplier and then resell the electricity to their tenants must comply with Ofgem's maximum resale price rules. The maximum resale price for electricity is currently set as the same price as that paid by the person reselling it, including any discounts. Under these circumstances, we expect landlords to pass on the discount received to tenants accordingly. Ofgem's guidance (available here) outlines how to ensure customers are being charged no more than they should when they buy the electricity through their landlord, including what to do if they think there has been a mistake.

Landlords with a domestic electricity connection who charge 'all inclusive' rent will be obliged, by new legislation, to pass on the Energy Bills Support Scheme payment of £400 spread over six months from October to their tenants who pay all-inclusive bills. The landlord's fixed charge may already provide their tenant with similar protection from the impact of the energy price increase. Where rental charges are affected by the rising costs of energy, the tenant and landlord would need to consider whether any other restrictions might apply. The Government is working with the Department for Levelling Up, Housing and Communities, along with key stakeholder groups in the private rental sector, to communicate this messaging.

We understand the risk of prepayment customers not redeeming their vouchers, which is why the Government is working on a communications campaign targeting people who have traditional prepayment meters with clear information about what they need to do to receive the £400 EBSS discount. We are also working with stakeholders across the energy industry, consumer groups and charities to communicate this information.

With regard to customers in debt, where credit is applied to an account, this will contribute to reduced arrears and any agreed debt repayment plan. As set out in the Government's response to the technical consultation on the EBSS (available here), we expect and encourage suppliers to make it their priority to work actively to move customers with large arrears balances onto repayment plans wherever possible. This should be in line with suppliers' normal business processes in complying with supply licence condition 27, including Ofgem's Ability to Pay Principles of:

a) having appropriate credit management policies and guidelines;

b) making proactive contact with customers;

c) understanding individual customers' ability to pay;

d) setting repayment rates based on ability to pay;

e) ensuring the customer understands the arrangement;

f) monitoring arrangements after they have been set up; and

g) re-engaging with a customer after an initial occurrence of a failed repayment arrangement.

This will help to ensure that, while EBSS will be allowed to contribute to debt and arrears, arrears balances should be minimised, and only an amount affordable for the customer should go towards debt.

17. ***We recommend that the Government urgently publishes its overdue Fairness and Affordability call for evidence, particularly in the context of rising energy prices. We recommend that the review includes a distributional analysis of the impact that recovering policy costs from electricity and gas bills has on vulnerable customers and considers moving legacy policy costs to general taxation. Any reapportioning of policy costs from electricity to gas bills must be accompanied by mitigating negative impacts on fuel poor and vulnerable consumers. The review should also include an assessment of the impact that standing charges have on vulnerable customers, and whether these charges are appropriate for customers using prepayment meters.*** (Paragraph 182)

The Government has taken decisive action through the new Energy Price Guarantee to reduce consumer energy bills. This action has superseded our commitment to publish a Call for Evidence on Fairness and Affordability. The Government will ensure that fairness and affordability remain at the heart of our approach to the energy system.

Through the Energy Price Guarantee the policy costs on gas and electricity, worth around £150, are being temporarily suspended for households and businesses; meaning in total, the Energy Price Guarantee will help the average household to realise a saving of £1,000 per year. Schemes previously funded by green levies will be funded by the Government for the duration of these schemes to ensure the UK's investment in home-grown, secure renewable technologies continues. The levies covered are the Renewables Obligation, Feed in Tariffs, Energy Company Obligation, Warm Home Discount, and Green Gas Levy. This ensures that the schemes funded by these costs can continue to operate and make our energy system cheaper, increase robustness and boost sustainability.

On standing charges, this is a matter for Ofgem. Ofgem recently published an open letter and follow-up decision on standing charges and the implications for vulnerable consumers (https://www.ofgem.gov.uk/publications/follow-our-review-arrangements-recovering-costs-supplier-failure). In particular it notes that:

- The correlation between energy consumption and vulnerability is complex, with a move away from the standing charge expected to see additional costs falling on customers in receipt of disability benefits and with health conditions, rural pensioners, and electric heating users;
- A typical customer with a Prepayment meter would likely be slightly worse off from a volumetric charge as compared to the current fixed charge.

We will continue to consider our longer-term approach to rebalancing the policy costs on energy bills, taking into account the impacts on vulnerable consumers as well as the need to incentivise and ensure energy security and decarbonisation.

18. ***We recommend that the Government develops a scheme to help vulnerable customers accelerate the repayment of debt that has accrued as a result of the energy pricing crisis, for example, by matching the contribution made by customers through the Fuel Direct scheme. We also recommend that Ofgem publishes data on the levels of debt in the market on a quarterly basis. We ask Ofgem to update and publish its analysis on the levels of bad debt it expects energy suppliers to accrue this winter after accounting for further increases to the price cap and the Government's support package announced in May 2022.*** (Paragraph 193)

The Government is determined to ensure that vulnerable consumers at risk of, or in debt, are supported and protected, particularly as a result of recent higher energy prices.

The Energy Price Guarantee will ensure that a typical household in Great Britain pays an average £2,500 a year on their energy bill, for the next 2 years, from 1 October 2022. Earlier this year, Government announced it is providing £37 billion worth of support to help consumers with the impacts of high global gas prices. We are also seeking to help households reduce their energy costs in the long term through improving the energy efficiency of their homes. Energy efficiency measures are available to low income and vulnerable households through multiple schemes including the Energy Company Obligation, the Social Housing Decarbonisation Fund and the Home Upgrade Grant.

Under the Industry Initiatives element of the Warm Home Discount scheme, energy suppliers can fund financial and energy-related measures including energy debt write-off. Suppliers can write off up to £2,000 per household, to provide meaningful relief at the same time as maximising the number of households who can be supported. There is an overall cap on the amount of Industry Initiatives funding which can be used for debt write-off so as to provide a balanced package which protects other interventions, such as energy advice and energy efficiency measures. The cap also reduces the risk of historic or 'bad debt' being written off under the scheme. We have reserved half of this debt write-off cap for customers on pre-payment meters, as pre-payment meter customers in debt are particularly at risk of self-disconnecting.

The Government's Breathing Space scheme gives consumers temporary legal protections from debt collection activities, allowing them to set up a debt solution without being chased for payments or accruing interest. There are additional protections for those receiving mental health crisis treatment. In the first 12 months of the scheme operating, since May 2021, there were 69,613 Breathing Space applications.

It is also important that the regulatory framework supports those in or at risk of debt. Ofgem's Standard Licence Conditions require energy suppliers to offer customers a range of payment options when they identify a customer that is in payment difficulty. These include deductions directly from benefits via Fuel Direct, agreeing a tailored repayment plan with a customer, or the installation of a prepayment meter where it is safe and reasonably practicable to do so.

When agreeing a repayment plan with their supplier, customers are protected by Standard Licencing Condition 27.8 – the Ability to Pay clause. This requires energy suppliers proactively to identify customers who may be in payment difficulty and ensure that repayment rates are set at a level which is appropriate for the individual customers circumstances. Any debt repayments need to be assessed according to this principle and need to be manageable for the customer.

Ofgem has strict rules in place to prevent customers being disconnected from their supply for the non-payment of debt. Due to this, disconnection of customers for debt is very rare. During the whole of 2021, there were 21 disconnections for non-payment of debt in electricity and no disconnections in gas. No electricity or gas disconnections were recorded in Q1 2022.

Ofgem publishes data on customer debt on a quarterly basis, arising from analysis of data gathered under Social Obligations Reporting. The latest publicly available data was published in June 2022, including on the number of accounts in debt and average level of debt. We intend to publish updated analysis at the end of September 2022 and quarterly thereafter.

19. ***We recommend that Ofgem addresses this differential, for example by reinstating the Safeguard Tariff for prepayment customers, to ensure that they pay no more than direct debit customers for their energy. This would be a temporary measure while the Government consults on the operation of a social tariff.*** (Paragraph 196)

For many people, prepayment meters remain an effective way to pay for their energy use and to help them manage costs and debt.

For prepayment meter customers in Great Britain, the Energy Price Guarantee will be applied to the rate paid for each unit of energy, so the money put on the meter will last longer than would otherwise have been the case this winter.

As is the case with the current price cap, under the Energy Price Guarantee there will continue to be a small difference between the unit cost for a pre-payment meter customer and other bill payers.

Prices are very slightly higher for prepayment meter than for direct debit customers because it costs more to install, maintain, and run their meters. Reducing prices for prepayment meter customers below their current level would require cross-subsidisation between consumers and between suppliers.

Ofgem has robust rules in place to protect prepayment meter customers, including an obligation to ensure suppliers make emergency and friendly-hours credit available to all pre-payment meter customers.

In addition, where a supplier identifies that a prepayment customer is in a vulnerable situation, including where a customer is self-disconnecting or self-rationing their supply, they must also offer additional support credit. When assessing how a customer will repay any credit offered, suppliers must also consider their ability to pay.

20. ***We call on Ofgem to enforce its New and Replacement Obligation in the supplier licence. We recommend that the Government makes it mandatory for all prepayment households to have a smart meter installed urgently, irrespective of supplier, so that it is easier to identify when customers are struggling to maintain supply and provide emergency credit. We recommend that Ofgem and BEIS set a target to end all self-disconnections by the end of the smart meter roll out (end of 2025).*** (Paragraph 206)

The Department and Ofgem want as many homes and small businesses as possible to benefit from smart meters. These are the default form of energy metering in Great Britain, with over half of meters now smart.

BEIS and Ofgem agree with the Committee's presentation of the benefits of smart meters in prepayment mode, considering these to be an effective incentive for consumers to switch from outdated traditional prepayment meters.

The consumer choice approach to the smart meter rollout in Great Britain was informed by extensive research, which found the extent to which consumer benefits of the rollout were realised depended upon consumers engaging with their smart meters and energy consumption data. The research found a mandatory approach was likely to erode these longer-term benefits, as consumers are less likely to engage with their In-Home Display, and change their energy consumption behaviour, if they are not persuaded of the advantages of doing so.

Furthermore, a mandatory approach to smart prepayment installations would present considerable practical barriers. For example, the prevalence of indoor meters in Great Britain means consumers would still need to be at home and grant energy suppliers access to their premises for meters to be installed. In a mandatory approach, for those that refuse installations, energy suppliers would in practice need to obtain forced powers of entry, which would reduce overall installation capacity, be costly and intrusive for consumers, and would be particularly undesirable in the current energy market context.

Instead, BEIS continues to favour a consumer centric approach. To drive consumer uptake of smart meters amongst prepayment consumers across Great Britain, BEIS works in close collaboration with Smart Energy GB (an industry-funded body obligated through energy supply licence conditions to assist consumers with low incomes or prepayment meters to realise the benefits of smart metering) and their partner organisations, including National Energy Action, to run targeted campaigns and tailored partnerships activities. Further activity to promote the benefits of smart prepayment services is planned to continue throughout Autumn 2022.

Energy suppliers are also working to drive consumer demand with a range of existing approaches to incentivise smart prepayment take up, including some adding free top-up credit to their customers' meters.

These approaches are effective. 13% of all smart meters are in prepayment mode which is broadly in line with the overall levels of prepayment meters in the market (14%)[1].

Ofgem is responsible for ensuring energy suppliers act in accordance with all the conditions of the gas and electricity supply licences. These licence conditions require energy suppliers to meet minimum annual installation targets and publish their progress on providing smart meters to their prepayment customers on their websites.

The 'New and Replacement Obligation' (NRO) is one of a number of obligations in the supply licences requiring suppliers to provide all customers with interoperable smart meter technology. These obligations affect both credit and prepayment customers. Ofgem expects suppliers to comply with the NRO; regularly engaging with suppliers and assessing their compliance with the obligation, in addition to other obligations relating to smart metering.

Ofgem will continue to review suppliers' performance against the NRO and other obligations relating to the smart meter rollout, and has been clear to suppliers that, if they do not meet these obligations, they will consider enforcement action against them, in line with enforcement guidelines and in the context of other enforcement priorities.

We expect new installations of traditional (non-smart) meters to continue to decline, as smart meters are now the default meter in Great Britain, and stocks of traditional meter equipment are run down.

BEIS and Ofgem will continue to work with Smart Energy GB, consumer groups and wider industry to encourage the uptake of prepayment smart meters by consumers and their installation by energy suppliers.

While BEIS will continue to closely monitor smart prepayment delivery and take up, we consider for the reasons outlined above our current approach remains appropriate in the current energy market context.

21. ***We reiterate our previous views that the Government should implement urgent, far-reaching, and long-term measures to replace the Green Homes Grant scheme that provides the energy efficiency supply chain with confidence of enduring demand and ends the stop-start policy approach in this area once and for all. We urge the Government not to divert funds from other energy efficiency schemes to pay for this.*** (Paragraph 217)

As set out in the heat and buildings strategy, we are committed to decarbonising buildings in an affordable and achievable manner and take a "fabric first" approach. Our commitment to investing in decarbonising our buildings remains unwavering, and we recognise the importance of long-term funding sustainably to grow the green installer base and supply chain. The Government is investing over £6.6 billion over this parliament to improve energy efficiency and decarbonise heating. We will deliver upgrades to over half a million homes in the coming years through our Social Housing Decarbonisation Fund, Home Upgrade Grant Schemes and Energy Company Obligation Scheme.

The Government has allocated £1.1 billion to the Home Upgrade Grant over the next three years, which is being delivered from early 2022 to March 2025. The Social Housing

1 By the end of 2021 [https://www.gov.uk/government/statistics/smart-meters-in-great-britain-quarterly-update-march-2022]

Decarbonisation Fund (just over £1bn committed between 2020/21 – 2024/25, against a £3.8bn manifesto commitment over 10 years) will upgrade a significant amount of the social housing stock currently below EPC C up to that standard. The £780m Local Authority Delivery Scheme, delivered in three waves, aims to support low-income households identified by local authorities as most needing energy efficiency upgrades.

The Energy Company Obligation scheme (ECO) has also been extended to run for four years to March 2026, with an increased value of £1 billion per year. This will help provide further longer-term certainty, compared to its predecessor ECO3 which ran from Dec 2018 to March 2022 at £640 million per year.

The Government recognises the need for a skilled, competent, and robust supply chain to deliver the improvements to buildings necessary to meet our net zero targets

To grow the installer supply chain, we are investing in skills and training. In 2021, the government invested £6 million in the BEIS Skills Training Competition, resulting in almost 7,000 training opportunities provided, across heat pumps, insulation, and wider retrofit skills. Following on from the success of this scheme BEIS will shortly be launching a £10 million Home Decarbonisation Skills Training Competition. This will fund training for people working in the energy efficiency, retrofit and low carbon heating sector and will increase supply chain capacity, both in terms of volume and skill level. Supporting the supply chain in this way will support the delivery of BEIS home retrofit schemes, as well as the decarbonisation of our buildings in support of the UK's net zero carbon emissions target.

The Green Homes Grant Voucher scheme was designed as a short-term economic stimulus for financial year 2020/21 while tackling our contribution to climate change. The scheme closed to applications on 31 March 2021. The latest Green Homes Grant voucher official statistics release published in February 2022 shows the scheme paid over £231 million in grants and installed over 49,000 measures, helping us improve the energy efficiency of homes in England. There will be a final statistical release towards the end of 2022 when all exceptional circumstance vouchers are redeemed.

An evaluation of the effectiveness of the scheme, including a comprehensive analysis of its processes and outcomes, is being undertaken by an independent research organisation, Ipsos, in partnership with University College London, Building Research Establishment, and the Energy Saving Trust. The findings from the evaluation are due for publication in Autumn 2023, but we are already ensuring that lessons learned are being acted upon in the development of future schemes.

Appendix 2: Response from Ofgem

Ofgem welcomes the thorough inquiry and insightful report on Energy Pricing and the Future Energy Market. The report has been published at a critical time during the ongoing extraordinary energy retail market conditions we are experiencing. Government, regulators and industry must all play their part in ensuring that the right policies, regulation, mechanisms and support are in place to protect consumers. Ofgem believes the unprecedented nature of this situation has raised significant questions around retail regulation. As the report states, Ofgem is proceeding with a programme of major regulatory reform and welcomes the opportunity to engage with Committee members further as we progress those reforms.

We accept that there have been significant problems in the way Ofgem operates and we support the majority of the report's conclusions and recommendations. However, we do not accept that the characterisation of incompetence or negligence applies to the current board. The longest-standing member of the current board has been in post since May 2018 and the CEO was appointed in 2020. Since that time Ofgem has undertaken a significant programme of work to reform governance and the board has undertaken its duties to implement appropriate governance seriously and diligently, including by actively challenging and supporting the organisation and its executive leadership.

Following the publication of the Oxera report that we commissioned in early 2022 and this Select Committee report we have made further improvements to governance. These include creating a full role for the Office of General Counsel to lead governance and revising board guidance to ensure that all matters requiring board decision-making or steer are raised with the board in a timely manner. Furthermore, changes have been made during 2022 to the executive leadership team covering the retail sector, including by introducing a senior leader with a remit to look across all retail issues and drive improvements to governance and strategic oversight of this area.

Ofgem has carried out an organisational transformation this year to create the right culture and ways of working, and establish the right operating environment, systems and processes to ensure that the organisation operates at its full potential and that reforms to governance are supported and embedded.

We had also taken forward reforms on retail regulation between 2018 and 2022, but we acknowledge progress was slow and insufficient to deal with last winter. Since then, we have put in place a major programme of regulatory reform, as the Committee has recognised, and we look forward to working with them as this programme is progressed and developed further.

The implementation of the reforms means that Ofgem is in a very different place today than it was a few years ago, although there is still more to do. We are building on our reform programme and welcome further engagement with the Committee as noted in their report and our responses below. Our full set of responses to the recommendations in the report is set out in the appendix below. We look forward to the opportunities such engagement will create to drive further improvements in energy market regulation.

1. ***We recommend that the Government urgently sets up a cross-departmental taskforce, like the Brexit taskforce, to respond to the energy price crisis and wider***

cost-of-living. This taskforce should meet regularly to support Ofgem and other arms of the Government to do the work necessary to provide the best possible outcomes for consumers and stabilise the energy supply market. (Paragraph 221)

The Department for Business, Energy and Industrial Strategy has recently launched a cross-Government Affordability Sprint to share data and information on affordability, supporting the development of energy market interventions. Ofgem remains actively engaged in this group and will continue to support the new Prime Minister and Cabinet.

2. ***We recommend that Ofgem implements the recommendations of the Oxera report in full to ensure that it has the proper frameworks for defining consumer interests and competition. We call on Ofgem to carry out rigorous quantitative impact analysis to underpin regulatory reforms and to make these publicly available for scrutiny. Ofgem must take urgent steps to improve the quality of its governance and the effectiveness of its Board by proactively challenging decisions made within the organisation, ensuring it has the necessary information and sufficient time to vigorously deliberate issues and make evidence-based decisions.*** (Paragraph 37)

Ofgem accepts the recommendations of the Oxera report in full, including the development of consumer interest and competition frameworks.

An ex-ante framework to define and measure consumer interests was discussed with the Board in July 2022 and is being further developed based on their feedback. Ofgem published the proposed consumer interests framework as part of the Net Zero Britain report in July and will seek further views from stakeholders. Development of the competition framework has also been launched, with the intention to deliver both frameworks as soon as possible.

Ofgem is committed to apply both frameworks to decision-making across all energy regulation. All relevant Board papers will be required to factor the consumer interest and effective competition frameworks into problem identification, options analysis, and conclusions and recommendations.

3. ***We call on Ofgem to make full and proper use of its enforcement and compliance powers to clamp down on rule breaking by suppliers, particularly relating to customer service standards. Ofgem should work with the Government to ensure it has the necessary complement of qualified staff working on its enforcement and compliance teams. We ask Ofgem to provide us with a detailed strategy on how it will improve its enforcement and compliance activity to effectively protect customers, and the timelines within which this will be achieved. We expect that from this financial year onwards, and on an annual basis, Ofgem provides a memorandum to this Committee, which includes a breakdown of the allocation of its resources and a summary of the enforcement and compliance action it has taken in response to rule breaking by energy suppliers.*** (Paragraph 45)

Ofgem understands the Committee is eager to see the detail of its compliance and enforcement activity and actions and proposes to share this in due course.

Ofgem also commits to provide a memorandum on an annual basis to cover a summary of the compliance and enforcement action Ofgem has taken against licensed energy suppliers and a breakdown of the allocation of resources to this work. Ofgem expects to provide this as part of a broader package of information requested in the Committee's report, the annual report and Ofgem accounts in July following each financial year.

Ofgem has brought suppliers together at a senior level over the last year to tackle potential customers service compliance issues at an early stage, for example in response to reports that suppliers were refusing to offer customers their standard variable tariffs. Ofgem engages regularly with suppliers and has increased communication following the unprecedented and unexpected rise in gas and electricity prices.

Ofgem has reiterated its expectations of suppliers, particularly in relation to customer service and their treatment of the most vulnerable consumers. Ofgem has also made it clear that it intends to "raise the bar" on what is expected on financial and risk management.

During 2022 Ofgem has engaged suppliers in areas including financial resilience, stress testing, asset control and launched a series of market compliance reviews. These activities and associated compliance engagement are ongoing but have already initiated enforcement action against TruEnergy, Foxglove, UK Energy Incubator Hub, Utilita and Scottish Power. Ofgem has also consulted on and implemented a number of changes to further protect consumers including modifications to licence conditions for new entrants and where suppliers reach certain milestones, updates to the financial responsibility and operational capacity principles and additional measures for reducing potential supplier failure and better protecting consumers money.

Over the last three years, Ofgem's compliance and enforcement teams have broadened their approach to tackle emerging issues as quickly as possible and better manage licensee behaviour, including through a greater use of alternative action and Orders. In this time Ofgem has issued over 60 Orders to suppliers as part of successful action on over 80 supplier cases with penalty/redress payments of over £37.5m, out of a broader figure of over £300m across all regulated parties.

Ofgem has continued to strengthen its compliance and enforcement capacity with 60 Full Time Equivalent staff in position as of 30 September 2022.

4. ***We therefore require the current and any future CEO and Chair of Ofgem to report annually to this Committee and to BEIS on the measures in place to ensure effective accountability and transparency required from Ofgem.*** (Paragraph 46)

Ofgem will develop an annual report for the Committee, approved by the CEO and Chair of the Board. This report will be shared with the committee shortly following publication of Ofgem's Annual Report and Accounts in July each year. (Paragraph 46)

The report to the Committee will include as a minimum: the measures in place to ensure effective accountability and transparency; key decisions, performance issues, and relevant policy concerns; a breakdown of the allocation of Ofgem resources; and a summary of the compliance and enforcement action taken in response to rule breaking by energy suppliers.

5. ***We call on the administrators of Avro Energy to request that the Insolvency Service consider bringing action against the former Directors of Avro Energy specifically and to update us on what, if any action, can be taken to recover customers' money.*** (Paragraph 56)

Ofgem is working closely with the insolvency service in respect of insolvent energy companies and will do all we can to support them with any investigations they may seek to progress in respect of such companies.

6. ***We further call on the Government to review whether regulators such as Ofgem should be given new powers to bring enforcement action for unfit conduct by energy company directors given the very limited scope for The Insolvency Service to do so. We consider this to be particularly important for energy supply companies given the handling of customer monies and the importance of security of supply.*** (Paragraph 57)

Ofgem has begun to consider the new powers that would be of benefit to consumers. It is considered that there is value in exploring the following additional powers:

- Enforcement for unfit directors
- The ability to appoint a third party to operate an energy supplier
- The power to act against the parent company of a licensee
- Making it quicker and easier to revoke a licence

7. ***We require Ofgem to start regularly and proactively reporting to the Department on how it is meeting its duties and to inform Ministers of any risks associated with the delivery of Government strategy. We ask the Department and Ofgem to review, update and publish a new Framework Document within six months of the date of this report.*** (Paragraph 65)

Ofgem and the Department have begun discussions to refresh the framework document in line with the requirements of His Majesty's Treasury. We expect to publish the framework by December 2022.

8. ***We recommend that the Government urgently publishes its long-delayed Strategy and Policy Statement for Ofgem to guide the regulator on how to manage the political and distributional trade-offs intrinsic to its responsibilities and clarify the split of responsibilities between Ofgem and BEIS.*** (Paragraph 66)

Ofgem would welcome the publication of the Strategy and Policy Statement and has provided views to Government.

9. ***We require Ofgem, to share key decisions, performance issues, and relevant policy concerns with this Committee. This should be in addition to writing to us with its Annual Report and Accounts and making both the Chairman and the Chief Executive Officer available for public scrutiny via this Committee.*** (Paragraph 67)

Ofgem will develop an annual report for the Committee, approved by the CEO and Chair of the Board. This report will be shared with the committee shortly following publication of Ofgem's Annual Report and Accounts in July each year.

The report to the Committee will include as a minimum: the measures in place to ensure effective accountability and transparency; key decisions, performance issues, and relevant policy concerns; a breakdown of the allocation of Ofgem resources; and a summary of the compliance and enforcement action taken in response to rule breaking by energy suppliers.

Ofgem will additionally engage with the Committee in advance of major decisions, and as particular concerns arise, and is happy to appear for further scrutiny via the Committee.

10. ***We recommend that the Government and Ofgem reform the Supplier of Last Resort process so that the costs are more fairly recouped whether through general taxation or energy bills.*** (Paragraph 77)

Ofgem has recently carried out a review of how the costs of supplier failure are recovered from electricity consumers which explored whether the existing fixed charge should be replaced with a volumetric alternative based on usage.

The review found that recovering supplier failure costs through unit rates may lead to small reductions in bills for some low-income consumers, but would increase charges for customers with high consumption, many of whom are vulnerable. On this basis Ofgem took the view that retaining the current methodology would better protect higher consuming customers with greater energy needs, for example consumers with disabilities and consumers with electric heating in areas off the gas grid.

Recovery of Supplier of Last Resort costs through general taxation would be a matter for Government.

11. ***We support the National Audit Office's recommendation that the Government and Ofgem review and subsequently update the Supplier of Last Resort process to address the problems that arose over the last year, including delays in the transfer of customer information by administrators which prevented the retrieval of credit balances, the treatment of customers in debt, and the imbalance of risk between customers and suppliers.*** (Paragraph 86)

Ofgem agrees it is essential that customers are treated fairly following any supplier failure, including ensuring timely return of credit balances and that customers in debt are supported.

There are limits to Ofgem's ability to act in this area, as it does not have powers over Insolvency Practitioners. However, Ofgem is committed to working with suppliers and Insolvency Practitioners to ensure current rules and Consumer Protection regulations are adhered to.

Ofgem has worked with Government to introduce the Public Interest Business Protection Tax. The objective of the tax is to deter companies in the energy market and their shareholders taking steps to monetise valuable assets for their own benefit, causing the company to go into either the Special Administration Regime or Supplier of Last Resort process and if that does occur to recoup costs that might otherwise fall on the general body of taxpayers and on consumers. The tax applies where profits are greater than £100m.

Ofgem is continuing to explore regulatory solutions but believes new legislation from Government will be needed to address residual hedges in failed energy suppliers to ensure that shareholders and significant persons do not continue to benefit from those assets once a company fails.

12. ***We recommend that the Government implements a hedging strategy at Bulb Energy. In the meantime, we ask that the Government provides us with detailed analysis of the cost implications for BEIS and the taxpayer of its decision not to purchase hedges to date.*** (Paragraph 95)

This is a matter for Government.

13. ***We recommend that, given the size of Bulb, the costs of the Special Administration Regime are paid through general taxation, as opposed to recouping the costs from already stretched energy bills. The Government should undertake a review of the Special Administration Regime to consider how to reduce the cost exposure to the taxpayer in future, and report to this Committee within the next six months on the lessons learned and any required reforms. We suggest, as a minimum, that the Treasury guidance is amended to make it clear that energy suppliers in the Special Administration Regime are presumed to be permitted to hedge.*** (Paragraph 96)

This is a matter for Government.

14. ***Ofgem should publish detailed proposals that will ensure energy suppliers have a higher level of capital adequacy in the future which is in line with growth. Financial stress testing and monitoring of suppliers' risk management strategies should be conducted by Ofgem as standard. Where individual or systemic problems are identified, Ofgem should work proactively with suppliers to resolve them. We recommend that Ofgem upskills its workforce to ensure it has the appropriate expertise to implement these provisions in an effective and proportionate manner. We ask Ofgem to publish a plan on how it intends to do this.*** (Paragraph 105)

Ofgem launched its supplier stress testing regime earlier in 2022 and is analysing the responses to the second iteration ahead of winter. This forms part of Ofgem's standard monitoring of supplier risk management practices, supported by regular requests for information such as hedging and financial data and proactive engagement with suppliers.

Ofgem proposed to introduce a capital adequacy framework in the policy consultation on Strengthening Finance Resilience. This framework would build on this monitoring and engagement to introduce specific capital adequacy requirements for suppliers. Ofgem plans to develop an adaptive framework to ensure the right level of resilience, while minimising unnecessary burden and barriers to innovation.

Ofgem has been expanding its capabilities in response to the energy crisis and plans to build on this to deliver a new capital adequacy regime. Implementation will be considered as part of the detailed plans for this policy and reflected appropriately in the annual Forward Work Programme.

15. ***Ofgem must publish a more robust impact analysis of its proposals for energy suppliers to ringfence customer credit balances. We expect the impact analysis to be based on evidence received from suppliers following an information request so that it is underpinned by facts, rather than assumptions. The analysis should include comparisons of Ofgem's preferred option with alterative options. It should be transparent and explicit about the implications of the proposal on energy bills and competition in the market, as well as the cumulative impact of this proposal and the other measures Ofgem is taking***

to boost resilience in the market. This analysis should be shared with this Committee with enough time for scrutiny before a final decision is taken by Ofgem and include an explanation of how Ofgem has balanced our priorities as set out above. (Paragraph 118)

Ofgem has been analysing responses to its policy consultation on Strengthening Financial Resilience as well as information submitted by suppliers as part of its latest request on customer credit balances and stress-testing (building on the requests in 2021 and March 2022, respectively).

Ofgem has also continued discussions with suppliers and others to better understand the likely consumer benefits and costs of the different proposed options as well as alternatives that have been put forward, such as 'ATOL-style insurance' submitted to the Committee.

The results are being used to revise the previous Impact Assessment.

Ofgem continues to believe that it is in consumers' interests for suppliers to not be overly reliant on customer credit balances, recognising that related issues were identified by Oxera and NAO as one of the common drivers of the supplier failures in late 2021–22.

Ofgem will share its revised analysis with the Committee and would welcome the opportunity to speak to discuss it in greater detail.

16. ***We recommend that the Government brings forward legislation to increase the frequency of Renewables Obligation payment deadlines. The Government and Ofgem should work together to implement this change in a way that provides a suitable period of adjustment for suppliers.*** (Paragraph 123)

Ofgem would support legislation for more frequent payment of Renewables Obligation payments.

Ofgem and the Department for Business, Energy and Industrial Strategy published a joint consultation in 2021 on supplier payment default under the Renewables Obligation. The approaches included:

Option 1: A legislative requirement for suppliers to settle their RO more frequently to lower the amount they can default on.

Option 2: A licence-based requirement for suppliers to protect their accruing obligation against the risk of default.

Option 3: Continuing with existing policy.

The Department decided against intervention while considering the wide range of complex issues affecting the market. The Department also declared its intention to consider the potential to bring Fixed Price Certificates into force sooner than the previous commitment of 2027, along with moving policy costs away from electricity bills over the 2020s.

Ofgem published a consultation in June this year which included measures to protect money collected to meet Renewables Obligation payments. Under Ofgem's proposed solution, suppliers must protect their RO from 1 April 2023 on a quarterly basis either through putting credit cover in place or discharging through ROC purchases. Ofgem is currently reviewing stakeholders' responses to the policy consultation and considering next steps.

17. ***Ofgem should update the cost benefit analysis of its proposal for a quarterly price cap, so it reflects the risk of prices increasing this January, in order for Ofgem, the Government, and Parliament to fully understand the potential impacts for vulnerable customers.*** (Paragraph 134)

The introduction of the Government's Energy Price Guarantee means there is no longer a risk of prices increasing for consumers in January. Ofgem is reviewing its approach in light of the Energy Price Guarantee and will update the Committee in due course.

18. ***We ask Ofgem to undertake an immediate review of the costs and benefits of the energy price cap to inform decisions about its operation and alternative forms of price protection.*** (Paragraph 142)

Ofgem carries out detailed reviews of the costs and benefits to consumers for every decision made with regard to the price cap, such as those published in early August 2022.

Each year Ofgem also publishes its assessment of whether conditions are in place for effective competition in domestic supply contracts. The Energy Price Guarantee will continue until 1 October 2024. There will be an opportunity for a wider review of all elements of the the energy price cap will be undertaken as part of discussions with Government on the future of price protection for consumers as the Energy Price Guarantee draws to a close.

19. ***We call on the Government to consider the introduction of a social tariff for the most vulnerable customers and a relative tariff for the rest of the market, to be introduced once wholesale energy prices have stabilised. We ask the Government and Ofgem to report its findings on the above issues within nine months of the date of this report.*** (Paragraph 143)

Social tariffs were introduced in 2008 as part of a voluntary agreement between government and the six largest suppliers. There were issues around the consistency of support as suppliers were able to set their own eligibility criteria, resulting in a lottery of access and large variations in benefit. Other consumers, including the most disengaged, cross-subsidised social tariff recipients. This led to social tariffs being replaced by the current mandated Warm Home Discount scheme in 2011.

In the event that a social tariff is decided as the most effective protection for some consumers, eligibility will be a key design question that will need to be considered as part of any work on social tariffs or alternatives. In the near term, Ofgem is planning to refine the distributional analysis. This will help to further identify the impacts of our decisions on different groups of consumers and better enable the support of customers who are in vulnerable situations. Ofgem will also continue working with Government on how best to identify and protect the most vulnerable consumers this winter and into the future.

20. ***We recommend that the Government brings forward regulation of third-party intermediaries. Regulations should ensure that third-party intermediaries encourage customers to switch not just on price, but also on customer service standards and other factors. The regulations should also ensure that third-party intermediaries are***

transparent about the services offered and the suppliers that they work with, provide an explanation of remuneration and access to advice and redress for customers. The regulations need to be future proofed for the significant role that third-party intermediaries are expected to play in the transition to net zero. (Paragraph 152)

This is a matter for Government.

21. ***The Department and Ofgem must urgently update the Energy Retail Market Strategy so that the supplier retail market aligns with our net zero target; this must include interim milestones and high-level principles about the role suppliers will play in achieving net zero.*** (Paragraph 162)

Ofgem is working with the Department to ensure the development of a clear and coordinated roadmap for the future energy retail market to support the achievement of an effective transition to net zero in line with the targets set by Government.

Ofgem's vision for the energy retail market includes:

- Delivering fair prices for consumers, with opportunities for all consumers to achieve savings through flexible energy use
- Providing quality and standards of service that meet consumers' needs and which protect them, in particular the most vulnerable, from harm
- Supporting a low-cost transition to net zero, including by enabling the provision of innovative and green energy, and
- Building resilience to market volatility and price shocks as well as encouraging long-term investment in the sector.

The Department is expected to publish an update to their Energy Retail Market Strategy later this year, including further information about timescales for finalisation and implementation.

22. ***In order to deliver the Government's target of a zero carbon electricity system by 2035, we further recommend that greater consideration is given to smart tariffs in the revised Energy Retail Market Strategy. Specifically, we ask the Government to consider how time of use tariffs can be supported while the necessary system reforms are being carried out. Consideration should also be given as to how to support the energy supplier market in engaging different customer groups in net zero and ensure sufficient protections are in place for vulnerable customers.*** (Paragraph 163)

Industry is making progress on implementation of market-wide half-hourly settlement, which Ofgem believes will be an important enabler of a more flexible, low carbon and low-cost energy system. Suppliers are currently able to offer time of use tariffs using the elective half-hourly settlement process. A review of the operation of the process in 2020 showed that relatively few suppliers are using it, but no specific barriers or problems were identified.

23. ***We urge the Government to provide an immediate and better targeted update to its support package that aligns with the expected scale of price increases.*** (Paragraph 170)

This is a matter for Government.

24. ***We recommend that the Government ensures there are sufficient safeguards in place for tenants to benefit from the Energy Bills Support Scheme. We recommend that the Government pays the scheme via a negative standing charge to mitigate the risk of prepayment customers not redeeming their vouchers and to ensure it reduces the costs of energy for customers in debt.*** (Paragraph 174)

Ofgem continues to work with suppliers and the Department to prepare for both the implementation of an increased Energy Bill Support Scheme and the Energy Price Guarantee.

These are Government schemes owned by the Department, with Ofgem providing specific areas of support in informing scheme design and guidance, enacting associated Licence Condition changes and monitoring supplier compliance.

25. ***We recommend that the Government urgently publishes its overdue Fairness and Affordability call for evidence, particularly in the context of rising energy prices. We recommend that the review includes a distributional analysis of the impact that recovering policy costs from electricity and gas bills has on vulnerable customers and considers moving legacy policy costs to general taxation. Any reapportioning of policy costs from electricity to gas bills must be accompanied by mitigating negative impacts on fuel poor and vulnerable consumers. The review should also include an assessment of the impact that standing charges have on vulnerable customers, and whether these charges are appropriate for customers using prepayment meters.*** (Paragraph 182)

Ofgem will share all available information on distributional effects of different policies with the Department and the Committee and intends to refresh the data used for distributional analysis. All updated assessments will be shared with the Department and Committee when available.

26. ***We urge Ofgem to take swift and firm action in response to suppliers breaching the Ability To Pay licence conditions and ensure that suppliers promote a range of debt repayment options.*** (Paragraph 187)

Ofgem has announced four Market Compliance Reviews to drive improvement across the market. The second Market Compliance Review, published on 27 September, focused on how suppliers support customers in debt or payment difficulty, along with suppliers' compliance with the Ability to Pay licence obligations.

The review found that although good practice exists across the industry, most suppliers need to make improvements in processes and governance to meet their obligations. The majority of suppliers were found to have minor or moderate issues and three were found to have 'severe' weaknesses – of which two suppliers have been served with immediate enforcement notices.

Given the depth of these concerns, Ofgem issued Provisional Orders to Utilita and ScottishPower requiring specific urgent actions and is considering whether enforcement action is warranted for other suppliers.

Ofgem has also sent a letter to all suppliers outlining the standards expected of them and best practice information. The next market review will look at customer vulnerability and will be published later this year.

27. ***We recommend that the Government develops a scheme to help vulnerable customers accelerate the repayment of debt that has accrued as a result of the energy pricing crisis, for example, by matching the contribution made by customers through the Fuel Direct scheme. We also recommend that Ofgem publishes data on the levels of debt in the market on a quarterly basis. We ask Ofgem to update and publish its analysis on the levels of bad debt it expects energy suppliers to accrue this winter after accounting for further increases to the price cap and the Government's support package announced in May 2022.*** (Paragraph 193)

Ofgem publishes data on customer debt on a quarterly basis, arising from analysis of data gathered under Social Obligations Reporting. The latest publicly available data was published on 30 September, including on the number of accounts in debt and average level of debt. Ofgem intends to publish updated analysis quarterly thereafter.

28. ***We recommend that Ofgem addresses this differential, for example by reinstating the Safeguard Tariff for prepayment customers, to ensure that they pay no more than direct debit customers for their energy. This would be a temporary measure while the Government consults on the operation of a social tariff.*** (Paragraph 196)

This is a matter for Government.

29. ***We recommend that Ofgem urgently improves its data collection on self-disconnection and publishes this on a more frequent basis. We ask Ofgem to conduct an impact analysis on how expected increases to the price cap this winter will affect customers at risk of self-disconnection. We call on Ofgem to review the existing Ability To Pay framework to determine whether further, immediate action is needed to address an increase in self-disconnection come October. We also ask Ofgem, ahead of this winter, to work with suppliers to help identify vulnerable prepayment customers who are at risk of self-disconnection, for example those who have high energy demand due to the use of medical equipment and offer to convert these users to credit mode to maintain their supply.*** (Paragraph 202)

In Q4 2021 Ofgem introduced a quarterly request for information to gather data from larger domestic suppliers on various datapoints in relation to pre-payment meter customers, including self-disconnection. Due to the challenges around identifying self-disconnection, Ofgem is currently only able to obtain data in relation to smart-PPM customers, comprising around 1.9m smart-PPM electricity customers and 1.4m smart-PPM gas customers.

Analysis of data is produced quarterly and considered within Ofgem, including on market trends with regards self-disconnection. Ofgem's view is that it would be preferable to have longer-term data available (at least one-years) prior to making it publicly available. Ofgem anticipates there will be significant seasonal impacts on the levels of self-disconnection observed, and as such it would be advantageous to have considered this, prior to making data public. Therefore, it may be early 2023 before the data is made available.

The Ability to Pay rules are covered by Standard Licence Condition 27.5. It is clear that suppliers must assess a consumer's ability to pay their energy bills. They should agree an affordable payment plan to help consumers stay on supply.

Suppliers should only install a prepayment meter if it is safe and practicable to do so. This is covered by SLC 28.1B. Ofgem published guidance on this in 2016, which stated that suppliers should assess whether it is safe and practicable to install a prepayment meter for reasons including "whether the customer requires a continuous supply for health reasons, such as dependency on medical equipment requiring an electricity supply."

30. ***We call on Ofgem to enforce its New and Replacement Obligation in the supplier licence. We recommend that the Government makes it mandatory for all prepayment households to have a smart meter installed urgently, irrespective of supplier, so that it is easier to identify when customers are struggling to maintain supply and provide emergency credit. We recommend that Ofgem and BEIS set a target to end all self-disconnections by the end of the smart meter roll out (end of 2025).*** (Paragraph 206)

Ofgem agrees with the Committee's assessment of the benefits of Smart prepayment meters. Ofgem is committed to ensuring that customers receive all the benefits of fully working and interoperable smart meters, however enforcement activity is currently focused on other areas of work due to resource constraints.

Larger suppliers have recently informed Ofgem that installations of traditional (non-smart) meter equipment is decreasing. Where a traditional meter is used for an installation or meter replacement, this is because the customer has specifically requested not to have a smart meter, or where a smart meter cannot be fitted due to space or technological constraints. Ofgem expects that new non-smart meter installations will further decline in the future as customers become more aware of the benefits of smart meters and stocks of traditional equipment falls.