



Law Society  
of Scotland

# Consultation Response

## Heat Networks: Building a Market Framework

4 June 2020



## Introduction

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The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Energy Law sub-committee welcomes the opportunity to consider and respond to the UK Government consultation: Heat Networks: Building a Market Framework (the UK consultation). The sub-committee has the following comments to put forward for consideration.

## General

The UK consultation<sup>1</sup> recognises that the Scottish Government has already introduced the Heat Networks (Scotland) Bill (the Bill) where that Call for Evidence closed on 1 June 2020 to which we have already fully responded.<sup>2</sup> We refer to that response in relation to the UK consultation and would seek to highlight the following aspects:

### Relationship between Scottish and UK interests

We recognise that the devolved nature of heat policy and heat network regulation in the UK is complex. Various aspects of the UK consultation apply to Scotland such as consumer protection and the Bill's objectives are substantially similar to those of the UK consultation. The UK consultation (Executive Summary) indicates that:

<sup>1</sup> The Scottish Government has announced in the Programme for Government (PfG), published in September 2019, that it will now move to introduce a Heat Networks Bill to regulate the heat networks sector in Scotland in a way that attracts investment in this key heat decarbonisation infrastructure. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/878072/heat-networks-building-market-framework-condoc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878072/heat-networks-building-market-framework-condoc.pdf)

<sup>2</sup> [https://www.parliament.scot/S5\\_EconomyJobsFairWork/Inquiries/EEFW-S5-20-HN-31-Law\\_Society\\_Scotland.pdf](https://www.parliament.scot/S5_EconomyJobsFairWork/Inquiries/EEFW-S5-20-HN-31-Law_Society_Scotland.pdf)

“[w]e are working closely with the Scottish Government to align our frameworks where appropriate” and specifically, “as the Scottish Government develops the Heat Decarbonisation Policy Statement..., the design of the wider policy framework to accelerate the deployment of low carbon heat will be considered.”<sup>3</sup>

There is a need for these ongoing issues to be discussed respectively during the passage of the Bill. We would welcome further details and information regarding the progress in those discussions.

## Competition and Markets Authority (CMA)

Protecting customers in bringing in a regime to regulate heat networks is essential. We endorse fully that:

*“that all heat network domestic consumers should have ready access to information about their heat network, a good quality of service, fair and transparently priced heating and a redress option should things go wrong.”<sup>4</sup>*

The UK consultation referred to keeping “under review the balance between robust consumer measures and proportionate regulatory costs and burden.”<sup>5</sup> These are considerations stressed by us in our response to the Call for Evidence. We recognised the background to these policy considerations as set out by the CMA<sup>6</sup> that:

*“we consider that a general authorisation or licensing regime that regulates heat networks against a set of regulatory principles laid down in rules and/or guidance would be a proportionate regulatory regime given the number and diversity of networks in the UK and the projected growth in the sector.”*

Under the Bill’s provisions, it will not be not compulsory for building owners/ occupiers to connect their buildings to a heat network within a heat network zone. The licence holders will have powers to take heating pipes up to the curtilage of a building such as within the property of the building owner and to its edge. However, building owners/ occupiers are not *to be* obliged to connect to the network, to take heat from it or to consider so doing.

Maintaining competition between suppliers is required to ensure that businesses need to win customers’ business by offering them a better deal. If there is not successful competition, then a poor outcome is achieved for the customers through, higher prices, reduced quality or reduced choice.

<sup>3</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/878072/heat-networks-building-market-framework-condoc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878072/heat-networks-building-market-framework-condoc.pdf)

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/878072/heat-networks-building-market-framework-condoc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878072/heat-networks-building-market-framework-condoc.pdf)

<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/878072/heat-networks-building-market-framework-condoc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878072/heat-networks-building-market-framework-condoc.pdf)

<sup>6</sup> Paragraph 21 of the Bill’s Policy Memorandum noted.

The UK consultation recognises that where there is an “ambition for the market to develop at pace, we think it is particularly important to ensure there is ongoing oversight of any competition concerns that potentially could emerge.”<sup>7</sup>We look forward to hearing more on how these are to be addressed at a national UK level.

<sup>7</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/878072/heat-networks-building-market-framework-condoc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878072/heat-networks-building-market-framework-condoc.pdf)



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