

# Decision

## **Decision - Heat networks regulation: authorisation conditions and guidance on measures to mitigate the risk and impact of financial failure**

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This document sets out our decision for the '[Heat networks regulation: authorisation conditions and guidance on measures to mitigate the risk and impact of financial failure](#)' consultation which was published on 8 August 2025. It provides a summary of responses to each question in the consultation, a brief overview of our policy proposals in each area, and the details of our decisions.

We will publish an updated version of the guidance ahead of regulatory commencement on 27 January 2026.

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### Introduction and summary

This is our response to the consultation “Heat networks regulation: authorisation conditions and guidance on measures to mitigate the risk and impact of financial failure” which was open from 8 August 2025 to 19 September 2025.

The consultation outlined our proposed measures seeking to ensure that in the event of heat network financial stress, authorised persons make arrangements to ensure that customers are protected. The consultation also presented draft authorisation conditions and associated guidance.

We received 31 responses to the consultation from a range of stakeholders including trade associations, consumer groups and heat network operators. We have reviewed all the responses and provide a summary of these here. We have decided to proceed with three authorisation conditions (ACs) and have made some changes to reflect stakeholder feedback which are summarised in the following chapters. In the appendix there is an updated version of these ACs. The ACs cover

- **Availability of Resources and Financial Responsibility Principle** - This condition sets out the requirement on the authorised person to act in a responsible manner calculated to secure a number of objectives, including that it maintains at all times sufficient resources to deliver its regulated activities and related obligations, and an obligation to notify the Authority where such resources might not be available.
- **Operational Arrangements and Material Assets** - This condition contains an obligation on each authorised person to ensure that its operational arrangements enable an administrator or any person taking over its regulated activities to effectively and efficiently serve its customers. This is followed by a series of obligations on authorised persons in relation to the material assets that they rely on to provide the regulated activities. The overall intent is to ensure that the material assets are always available to the person who is authorised to carry on the relevant activity for the benefit of the consumers.
- **Continuity Arrangements** - This condition imposes an obligation to have in place a continuity plan setting out the authorised person’s plan for safeguarding the continuity of each of its regulated activities in the event that it ceases to carry on any such activity; an obligation to take all reasonable steps to ensure continuity in the event of an authorisation revocation or transfer or cessation of activities; and, in the case of networks with separate operators and suppliers, an obligation on the operator to take over the supply function in the event of the authorised supplier ceasing to carry it on.

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We will also reflect feedback in an updated version of the associated guidance which will be published ahead of regulatory commencement in January 2026.

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### 1. Risks of failure and models in the sector

#### Section summary

We consulted on our assessment of the risks to continued supply in the case of failure of the authorised person in common heat network delivery models. Stakeholders broadly supported this assessment, and the feedback highlighted a number of areas that we will clarify in our updated guidance.

#### Questions analysis

#### Q1. Do you agree with our assessment of the risks to continuity of supply where operators face financial failure in the sector? Please explain your answer.

Table 1: Response summary for consultation question 1

| Response        | Number of Responses | Percentage |
|-----------------|---------------------|------------|
| Agree           | 16                  | 52%        |
| Partially agree | 9                   | 29%        |
| Disagree        | 2                   | 6%         |
| Not answered    | 4                   | 13%        |
| Comments        | 25                  |            |

- 1.1 A majority (81%) agreed or partially agreed with our assessment of risks across the delivery models outlined in the consultation. Two respondents disagreed. Of the 27 stakeholders who answered the question, 25 also provided comments.
- 1.2 Some comments suggested that respondents believed Ofgem was proposing to mandate a contractual step-in arrangement for all heat networks. **This is not the case.** We believe that some delivery models may be well-suited to a contractual step-in arrangement, but this will be for developers and operators to manage. We want heat networks to learn from and build on existing practice, to effectively mitigate against consumers losing access to heating and hot water. We will continue to work with the sector to explore ways to promote and share such best practice.
- 1.3 Some respondents thought more consideration should be given to the specific risks for certain types of heat network.
  - three mentioned smaller heat networks and the potential difficulties in continued operation in the event of financial failure of the original operator

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- one outlined their wish to see the circumstances of remote and island heat networks considered further.
  - one requested more explicit guidance where heat networks serve mixed tenure housing, particularly when provided by a joint venture or managing agent.
- 1.4 Two respondents suggested that we should consider the risks of a geopolitical crisis and what the impact would be on the sector.
- 1.5 Of those who disagreed, one respondent considered that local authority and registered providers should be in scope due to concerns about the performance of heat networks in this part of the sector. The other respondent who disagreed raised concerns that in small, rural heat networks there would not be parties who would be willing to take over the operation of a heat network if needed.
- 1.6 Our response is on page 8.

**Q2. Are there any other models which we have not explored which merit assessment of the risks to continuity of supply in case of financial failure? Please explain your answer.**

- 1.7 We received 22 comments on this question. The majority of those who responded to this question indicated that they were not aware of other heat network delivery models. Some of these respondents sought further clarity on which models certain types of heat network fell into and commented further on the prevalence and specific risks associated with them.
- 1.8 Three respondents raised concerns around the lack of market solutions for smaller heat networks in the event of operator insolvency, with two of those specifically mentioning resident or community-owned heat networks.
- 1.9 Three respondents sought clarity in guidance on the approach to public and private partnerships and joint venture models where local authorities and registered providers share ownership of an entity which operates heat networks.
- 1.10 One respondent thought that there were additional risks associated with the operation of purchased or inherited heat networks, given the potential relative lack of knowledge of the incumbent operator.
- 1.11 Another respondent identified a number of scenarios where responsibilities may be less clear and this may pose a risk to continuity of supply, including where investors own a heat network but outsource its operation to another entity.
- 1.12 Our response is on page 8.

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### **Ofgem Response**

#### **Risk of failure and models in the sector**

While there was significant support for our analysis of risk and models in the sector, there were various scenarios identified where stakeholders requested further guidance. This includes clarity on the interactions between the financial resilience conditions, and other authorisation conditions, and definitions across the framework. We will reflect this feedback in our updated guidance where possible, ensuring that the relevant definitions are visible and clear, and identify where we can provide further detail on the scenarios raised.

We reiterate the decision not to proceed with mandating all networks to have contractual step-in arrangements in place and in our guidance we will clarify our expectations on good practice, recognising that this will vary across the different models in the sector.

As we gather data and intelligence across the sector, we will keep our analysis of risks under review and consider how to respond. We expect to develop the guidance iteratively with input from stakeholders and will consider if further measures are needed to address risks.



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### **2. Scope**

#### **Section summary**

Respondents were generally supportive of our proposal that where local authorities (LA) and registered providers of social housing (RP) were the authorised person, they would not be in scope of the majority of the financial resilience provisions.

Respondents tended to support that this should not extend to models where a separate entity is the authorised party, for example where an Energy Service Company (ESCo) or Special Purpose Vehicle (SPV) is the authorised party. Respondents highlighted some segments of the heat network market where there may be some existing protections for consumers in the event of a market exit including leaseholders, and those on Shared Ground Loops.

Respondents were generally supportive of our approach to industrial and self-supply networks, however there was some uncertainty on the definitions of these networks, and respondents wanted to ensure that any domestic consumers connected to industrial networks would be protected.

#### **Question analysis**

**Q3. Are there other segments of the heat network sector which have clear continuity of customer supply arrangements in the event of a market exit which we have not considered? Please explain your answer.**

- 2.1 Twenty comments were received on this question. Of these responses, 13 respondents stated that they were not aware of any other segments with clear continuity of supply arrangements. A number of these recognised the existing regulatory powers in the social housing sector and agreed with excluding them from the scope of Ofgem's requirements.
- 2.2 Many respondents agreed that registered providers of social housing and local authorities have clear continuity arrangements. However, they felt that clarification is needed where Special Purpose Vehicles (SPVs) or separate supply companies are used. One respondent also raised the need to continue to understand the interaction of these proposals with housing regulation in the devolved nations.
- 2.3 One respondent raised community-led networks and felt that clarity on whether these would count as 'self-supply' would be helpful. Three respondents raised not-for profit schemes, with one highlighting place-based schemes which have strong operational records and are embedded within communities arguing these should be subject to lighter financial regulation.
- 2.4 One respondent raised mixed-use developments where contractual obligations may continue to exist for essential services even where an operator fails. It was also raised that where the heat source for a network is tied to a critical service

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such as combined heat and power plants, or municipal energy centres, continuity of supply is likely to be maintained.

- 2.5 Two respondents pointed to protections in the leasehold sector, with one stating that whilst a landlord insolvency would cause disruption, that as energy costs are met through the service charge there would be minimal risk to the energy supplier. They flagged that in this scenario a third party, which could include the leaseholders, could assume ownership and the service charge fund would continue to operate. They also noted that in a commonhold model, there may not be a third party available to assume control of an insolvent Commonhold Association.
- 2.6 Two respondents said that Shared Ground Loops (SGLs) would have clear continuity of supply arrangements. A further respondent raised this in response to question two highlighting that the most likely disruption to supply for an SGL would be through a disruption in electricity supply.
- 2.7 Our response is on page 12.

### **Q4. Do you agree that our financial resilience provisions should apply where registered providers are using separate entities to carry out regulated heat network activity? This can include subsidiaries that are not regulated by a social housing regulator, like energy supply companies or special purpose vehicles.**

Table 2: Response summary for consultation question 4

| <b>Response</b> | <b>Number of responses</b> | <b>Percentage of total responses</b> |
|-----------------|----------------------------|--------------------------------------|
| Agree           | 17                         | 55%                                  |
| Partially agree | 6                          | 19%                                  |
| Disagree        | 0                          | 0%                                   |
| Not answered    | 8                          | 26%                                  |
| Comments        | 20                         |                                      |

- 2.8 All respondents who answered this question either agreed or partially agreed that our financial resilience provisions should apply where registered providers are using separate entities to carry out regulated heat network activity.

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- 2.9 Of those who commented agreeing with this position, respondents felt that this appeared to be a reasonable safeguard. One respondent raised that these subsidiaries often operate with the same risks as independent or private operators and therefore customers should receive the same protection.
- 2.10 Some respondents felt that while they largely agreed with this proposal, a more streamlined or proportionate approach should be taken recognising the relationship with the parent entity. It was raised that the parent entity was likely to have greater financial strength and governance and that the parent company would be likely to act as a step-in party.
- 2.11 One respondent queried the boundaries between supply from subsidiaries and self-supply.
- 2.12 One respondent highlighted concerns about the cost of a registered provider of social housing or a local authority stepping in to act as a supplier in the event of a failure, particularly where there is no existing experience of acting as a supplier and suggested they would need support from Ofgem to carry out this activity.
- 2.13 Our response is on page 12.

### **Q5. Do you agree that self-supply and industrial networks should be out of scope of the financial resilience requirements?**

Table 3: Response summary for consultation question 5

| <b>Responses</b> | <b>Number of responses</b> | <b>Percentage of total responses</b> |
|------------------|----------------------------|--------------------------------------|
| Agree            | 19                         | 61%                                  |
| Partially agree  | 4                          | 13%                                  |
| Disagree         | 1                          | 3%                                   |
| Not answered     | 7                          | 23%                                  |
| Comments         | 22                         |                                      |

- 2.14 A majority of respondents (74%) agreed or partially agreed that self-supply and industrial networks should be out of scope. One respondent disagreed.
- 2.15 Some respondents who agreed with the proposal recognised that in self-supply networks, the customer is also the supplier and therefore continuity protections are unnecessary. They also recognised that industrial networks generally have the

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commercial expertise, scale and bargaining powers to negotiate their own terms and contingency plans.

- 2.16 One respondent felt there should be a clear definition of ‘self-supply’ and ‘industrial’. Concerns were also raised that networks may seek to structure themselves to appear to be self-supply to avoid regulation.
- 2.17 One respondent flagged a concern that isolated self-supply networks could leave domestic customers without heating and hot water should they enter insolvency. Three respondents did not think this exclusion should apply where the self-supply or industrial network also supplied domestic consumers. A further respondent felt consideration should be given to extending the financial resilience requirements to industrial networks where network failure would lead to public detriment, for example in production of essential medical supplies or defence industry production.
- 2.18 One respondent felt that it would be impossible for some small rural heat networks to fulfil the financial resilience requirements.
- 2.19 Two respondents argued that self-supply rules should be extended to networks where customers are involved in the supply company, for example as directors or members. One respondent suggested there is an incentive for these networks to avoid failure by subsidising if necessary. One respondent suggested this might also be extended to non-profit organisations.
- 2.20 Our response can be found below.

## **Ofgem response**

### **Scope of financial resilience provisions**

We intend to proceed with our proposal that the majority of the financial resilience provisions would not apply where the authorised party is a registered provider of social housing (RP) or a local authority (LA). The financial resilience provisions will apply where the authorised person is not the RP or LA, including in cases where it is a separate SPV or ESCo. We expect that where SPVs are used, the partners establishing these arrangements will be developing robust and resilient entities and consider their ongoing legal obligations to tenants.

We note feedback about community led and not-for-profit networks and recognise there are incentives for these networks to continue operation. We also recognise the detriment to domestic consumers should these networks enter insolvency and no longer continue to provide heating and hot water. Therefore, we do not feel there is currently enough evidence to show a sufficient mitigation to exempt these networks from the financial resilience provisions.

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We intend to further explore interactions between leasehold legislation and the Material Assets provision and whether this needs to be reflected in the authorisation condition or can be covered in guidance.

**Non-domestic, self-supply and industrial networks**

Responses supported our proposal to exempt self-supply and industrial networks from the financial resilience provisions. We therefore intend to continue with this exemption.

The definitions of self-supply and industrial networks were consulted on as part of the [Heat networks regulation: implementing consumer protections](#) consultation. They can be found in the updated Draft Definitions Authorisation Condition. We intend to make clear in the guidance that industrial networks will only be exempt from the financial resilience provisions where they do not also supply domestic customers.

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### 3. Financial Resilience authorisation conditions

#### Section summary

Respondents were generally supportive of the proposals for the Financial Resilience provisions on Availability of Resource and Material Assets.

We will proceed with introducing the 'Availability of Resources and Internal Capability' authorisation condition, which we have renamed 'Availability of Resources and Financial Responsibility Principle'. We have made a number of drafting changes to reflect stakeholder feedback.

We will also proceed with introducing the 'Material Assets' authorisation condition, which we have renamed 'Operational Arrangements and Material Assets'. We have made a number of drafting changes to reflect stakeholder feedback.

We will review and further develop the associated guidance for these authorisation conditions. We will proceed with the proposal to have financial reporting data submitted in line with financial years on an annual basis.

#### Questions analysis

**Q6. Do you agree with the policy intent and authorisation condition 'Availability of Resources and Internal Capability'? Please explain your answer.**

Table 4: Response summary for consultation question 6

| Response        | Number of responses | Percentage of total responses |
|-----------------|---------------------|-------------------------------|
| Agree           | 12                  | 39%                           |
| Partially agree | 12                  | 39%                           |
| Disagree        | 2                   | 6%                            |
| Not answered    | 5                   | 16%                           |
| Comments        | 24                  |                               |

3.1 The majority of respondents supported our proposed 'Availability of Resources and Internal Capability' (AoRIC) authorisation condition. Two respondents disagreed with the proposed authorisation condition.

3.2 Three respondents noted that proportionality should be considered in how provisions of the condition would be evidenced or assessed. Feedback on

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proportionality highlighted the burden that could be placed on smaller networks by trying to meet the condition or if the requirements duplicated existing obligations.

- 3.3 Two respondents stated that they would benefit from additional terms in the authorisation condition being defined. These terms included ‘sufficient resource’, ‘concern’ and ‘severe but plausible stress’. They stated this would allow them to better assess their compliance with the condition.
- 3.4 One respondent highlighted potential duplication between the authorisation conditions and our proposed Standards of Conduct. They considered that the AoRIC authorisation condition could be more clearly targeted towards financial resilience.
- 3.5 One respondent raised a concern about operators providing sufficiently for unexpected costs, for example, if they needed to replace the energy centre.
- 3.6 Respondents also asked for clarity on SPVs, such as making it clear that in the event of an SPV being used that sub-contracts are still permitted.
- 3.7 Our response is on page 18.

### **Q7. Do you agree with the policy intent and authorisation condition ‘Material Assets’? Please explain your answer.**

Table 5: Response summary for consultation question 7

| <b>Response</b> | <b>Number of responses</b> | <b>Percentage of total responses</b> |
|-----------------|----------------------------|--------------------------------------|
| Agree           | 10                         | 32%                                  |
| Partially agree | 14                         | 45%                                  |
| Disagree        | 4                          | 13%                                  |
| Not answered    | 3                          | 10%                                  |
| Comments        | 26                         |                                      |

- 3.8 The majority of respondents agreed or partially agreed with the material assets authorisation condition.

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- 3.9 Three respondents suggested that, given their importance for maintenance, improvement and risk mitigation, sinking funds should be specifically identified as material assets.
- 3.10 Two respondents disagreed on the basis that they believed third party rights, including novation restrictions, would impede the proposed asset transfer requirements. Another respondent who disagreed considered that it would be difficult for smaller operators to comply with the authorisation condition.
- 3.11 Some respondents agreed with the authorisation condition but similarly expressed concern that third party rights could present difficulties in completing asset transfer, citing easements, leases and novation restrictions as potential complicating factors.
- 3.12 One respondent requested guidance on the restriction on disposing of material assets, and the circumstances in which this would be permitted.
- 3.13 Our response is on page 18.

### **Q8. Do you agree with the approach to financial monitoring and the regular reporting requirements? Please explain your answer.**

Table 6: Response summary for consultation question 8

| <b>Response</b> | <b>Number of responses</b> | <b>Percentage of total responses</b> |
|-----------------|----------------------------|--------------------------------------|
| Agree           | 11                         | 35%                                  |
| Partially agree | 11                         | 35%                                  |
| Disagree        | 4                          | 13%                                  |
| Not answered    | 5                          | 16%                                  |
| Comments        | 24                         |                                      |

- 3.14 Respondents were broadly supportive of the financial reporting requirements. The majority of those who responded agreed or partially agreed, with four respondents disagreeing.
- 3.15 There was support from respondents around the proposal to align reporting deadlines with the financial year end dates of organisations. There was further support to have the data reported at the organisation level as opposed to reporting it for each individual heat network.



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- 3.16 Three respondents who agreed or partially agreed asked whether these requirements would be a duplication of the data being collected as part of the fair pricing framework. Another respondent noted there may be duplication with other reporting required by entities licensed by Ofgem for other activities.
- 3.17 Some respondents asked for consideration to be given to the proportionality of the requested data points and their source. One respondent noted that some smaller networks would not be able to provide annual accounts or separate the relevant financial information from other sources.
- 3.18 Our response is on page 18.

**Q9. Do you have feedback on the proposed guidance outlined in Appendix 2 that would improve its use for your organisation?**

- 3.19 Nineteen comments were received on this question. Several respondents stated that they had no recommendations and expressed support for the draft guidance.
- 3.20 The most common feedback was asking that the guidance use clearer naming conventions or provide further definitions for terms that were used. These included, 'sufficient resource', 'concern' and 'severe but plausible stress'.
- 3.21 Two respondents noted difficulties for smaller networks, with one specifically highlighting sole traders and potential issues in their reporting. One respondent suggested a reduced financial reporting regime to alleviate burden on these smaller networks.
- 3.22 One respondent suggested the guidance should set out the expectations for micro, small and medium businesses as well as district networks.
- 3.23 One respondent who supported the proposal for reporting to take place in line with the financial year stated we should ask for financial information that is calculated during an organisation's end of year calculations.
- 3.24 One respondent recommended also using guidance to help smaller networks develop their hedging arrangements.
- 3.25 One respondent recommended Ofgem should account for group support arrangements, as these impact their financial resilience.
- 3.26 Our response is on page 18.

**Q10. Do you have feedback on the proposed 'Material Assets' guidance outlined in Appendix 3 that would improve its use for your organisation?**

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- 3.27 Fourteen comments were received on this question, with most requesting more detail or expanded definition of certain terms.
- 3.28 Five respondents wanted to see additional detail on the description and definition of material assets, including one who asked for specific differentiation between material and non-material assets, and others who wished to see guidance on the level of detail required to be included in material asset registers.
- 3.29 Three respondents requested a more detailed definition of the term ‘permitted security interests’, and three respondents also sought more detail in the definition of ‘sufficient control’, with the latter group expressing concerns about assets subject to third party rights or owned by third parties.
- 3.30 Three respondents suggested that it would be helpful to have a template material asset register included in guidance.
- 3.31 Our response can be found below.

## **Ofgem Response**

### **Authorisation conditions**

We will proceed with introducing an ‘Availability of Resource and Financial Responsibility Principle’ authorisation condition. We have updated this condition, making the following changes.

- We have focussed this condition on ensuring authorised entities have and maintain sufficient resources to fulfil their regulatory activities and obligations.
- We have included in the AC, the obligation to take appropriate measures to identify and manage risks, and to be able to meet reasonable anticipated liabilities as they fall due.
- We have specifically included that monies collected from consumers for maintaining, repairing or replacing the heat network (‘sinking funds’) must be available for the purpose for which they are collected. Where heat charges are ‘bundled’ there are existing legal requirements in place, and we will consider whether further protections are needed across the sector to support this obligation.

We will proceed with introducing an ‘Operational Arrangements and Material Assets’ authorisation condition. We have updated this condition, making the following changes.

- We have clarified that an authorised person should ensure its operational arrangements are such that any successor (including any administrator) would be able to efficiently and effectively carry on the regulated activity and clarified any circumstances where this obligation does not apply.

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- We have clarified that the restriction on disposing of material assets applies if doing so would impact the authorised person's ability to carry on the regulated activity.
- We have also specified that a Material Asset Register should be in place by the end of the first part of the Initial Period (26 January 2027).

We have noted feedback about the application of these provisions and confirm that these authorisation conditions will not apply to Local Authorities or registered providers of social housing. Therefore, the requirements and subsequent financial reporting will not be mandated for these organisations, given the separate regulatory provisions they are subject to.

### **Guidance**

There are a number of areas where we will review the draft guidance and provide further details to respond to feedback. We will also proceed with the annual financial reporting requirements. While we expect there will be limited scenarios where this is the case, if an authorised person does not produce annual accounts, then they may submit the required data in line with their basic annual reporting submission period.

We have not been prescriptive on companies' approach to hedging, but we are seeking to gather information on how entities approach fuel procurement. We will keep this under review, and consider if we need to go further, or whether further guidance can be developed for authorised networks.

We will consider what further detail we can provide on the material asset requirements, including the register. We have provided definitions in a separate 'Definitions' AC and will explore what further guidance we can provide in specific cases raised by respondents.

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### 4. Continuity arrangements

#### Section summary

Respondents were generally supportive of the proposals regarding ‘Continuity arrangements’, including the authorisation condition and the outlined continuity plan.

We intend to proceed with introducing the ‘Continuity Arrangements’ authorisation condition. We have retained the provision that operators should ensure continued supply in the event of the supplier exiting the market.

Whilst the authorisation condition will be in place from January 2026, our expectation is for relevant authorised persons to have compliant continuity plans by 27 January 2027, the end of the first part of the initial period.

We will review and further develop the guidance on ‘Continuity arrangements’ and incorporate feedback from the consultation and recommendations from respondents where appropriate.

#### Question analysis

**Q11. Do you agree with the policy intent and authorisation condition, ‘Continuity Arrangements’? Please explain your answer.**

Table 7: Response summary for consultation question 11

| Responses       | Number of responses | Percentage of total responses |
|-----------------|---------------------|-------------------------------|
| Agree           | 16                  | 52%                           |
| Partially agree | 10                  | 32%                           |
| Disagree        | 1                   | 3%                            |
| Not answered    | 4                   | 13%                           |
| Comments        | 21                  |                               |

- 4.1 The majority of respondents supported our proposed ‘Continuity Arrangements’ policy intent and draft AC, with there being one respondent who disagreed.
- 4.2 Two respondents highlighted the risk of metering and billing agents going insolvent and the impact this would have on heat networks reliant on their service and the client money they held. A specific suggestion was made that heat suppliers should ensure that metering and account data held by a third party is

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protected and accessible in the case of failure of the third party. Prevailing legal requirements in The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 were also highlighted.

- 4.3 Two respondents stated that there should be additional information that would be necessary for an operator to have when taking over a network. This included information on the energy centre, insurance information and safety protocols. Both respondents noted that providing this information could be included as best practice rather than being part of the minimum requirements.
- 4.4 One supplier asked for clarification regarding how this condition would interact with heat networks once they reach the end of their natural life cycle. They queried whether the requirements still apply in the event that a heat network needed to be replaced or be removed.
- 4.5 One respondent who supported the policy intent and authorisation condition in principle noted that the condition should consider issues found on inherited networks that performed poorly, as well as the complexities of networks operated by multiple parties.
- 4.6 One respondent suggested as part of the condition, a Disaster Recovery Plan should be incorporated into the continuity plan to address technical failure.
- 4.7 Our response is on page 24.

### **Q12. Do you agree with the proposal for operators to carry on the supply of heating, cooling or hot water if the supplier ceases to? Are you aware of any examples where this would not be feasible?**

Table 8: Response summary for consultation question 12

| <b>Response</b> | <b>Number of responses</b> | <b>Percentage of total responses</b> |
|-----------------|----------------------------|--------------------------------------|
| Agree           | 12                         | 39%                                  |
| Partially agree | 13                         | 42%                                  |
| Disagree        | 1                          | 3%                                   |
| Not answered    | 5                          | 16%                                  |
| Comments        | 25                         |                                      |

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- 4.8 A significant majority of respondents agreed that where a heat network has a separate operator and supplier, the operator should be responsible for ensuring continued supply if the supplier ceases to do so.
- 4.9 Four respondents requested clarification on how this requirement would apply in scenarios where a number of communal heat networks with separate suppliers were served by a district heat network.
- 4.10 Four respondents commented that it may be difficult for some operators to fulfil this requirement due to their size and lack of knowledge or capacity, with one of these respondents disagreeing with the proposal on this basis.
- 4.11 Respondents outlined potential difficulties for operators in complying with this requirement due to data privacy or third-party rights issues.
- 4.12 One respondent who partially agreed suggested that operators should only be obliged to use ‘best endeavours’ rather than required to ensure continued supply on their heat network.
- 4.13 Another respondent asked whether it would be possible for a register of potential suppliers to be maintained, to aid operators in finding a replacement supplier.
- 4.14 Our response is on page 24.

### **Q13. Do you agree with the proposed contents and breakdown of the plan? Please explain your answer.**

Table 9: Response summary for consultation question 13

| <b>Response</b> | <b>Number of responses</b> | <b>Percentage of total responses</b> |
|-----------------|----------------------------|--------------------------------------|
| Agree           | 11                         | 35%                                  |
| Partially agree | 11                         | 35%                                  |
| Disagree        | 2                          | 7%                                   |
| Not answered    | 7                          | 23%                                  |
| Comments        | 19                         |                                      |

- 4.15 The majority of respondents broadly supported the proposed content and breakdown of the continuity plan.

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- 4.16 Most respondents who agreed tended to support the proposed content outlined with no further comments or areas to include in the plan. Others who agreed asked for the requirements or content of the plan to be made clearer.
- 4.17 Those who partially agreed tended to support the plan in principle but either sought clarification or had concerns about how they would produce and maintain it.
- 4.18 Three responses suggested the plan could include additional technical data for the operator to maintain. They recommended this could be included as best practice instead of minimum requirements.
- 4.19 Some respondents highlighted that they would benefit from having templates and worked examples of a continuity plan available. Similar to this point, respondents also noted that they sought clarity on the expected difference in terms of scale between the plans of smaller and larger organisations.
- 4.20 One respondent asked for time to implement the plan as well as to update it for smaller networks.
- 4.21 One respondent sought confirmation as to whether property managers fell under the third-party service providers section of the plan.
- 4.22 Our response is on page 24.

**Q14. Do you have feedback on the proposed guidance outlined in Appendix 4 that would improve its use for your organisation? ('Continuity plans')**

- 4.23 Twenty-two comments were made in response to this question. Of these, several respondents stated that the guidance in its current form provided enough information and had no further comments.
- 4.24 There were also calls for additional data to be included the continuity plan. Three respondents recommended technical data to be included in an operator's continuity plan as an example of best practice. One respondent also recommended that disaster recovery plans should be part of the requirements and should be included within the continuity plan to address technical failure.
- 4.25 Two respondents asked for worked examples of a continuity plan. They considered that this would also help illustrate the expected difference in scale between the continuity plans of smaller and larger organisations. A further respondent requested templates on which to develop their continuity plan. Another respondent noted they would benefit from a greater degree of detail provided in the guidance on the content requirements for the continuity plan and made the same point regarding the material assets register.

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- 4.26 Two respondents asked what would happen if a network with multiple operators could not agree on who would act as the interim supplier in the event of the supplier failing.
- 4.27 Two respondents noted the risk to the market in the event of metering & billing providers going insolvent given the number of suppliers in the industry who use their services.
- 4.28 Our response is below.

## **Ofgem response**

### **Authorisation condition**

We intend to proceed with introducing the ‘Continuity Arrangements’ authorisation condition. We will continue to include the provision that operators should provide interim supply in the event of the supplier exiting the market. Whilst the authorisation condition will be in place from January 2026, our expectation is for relevant authorised persons to have compliant continuity plans by 26 January 2027, the end of the first part of the initial period. We have updated the AC to specifically reference metering and billing arrangements, and associated information. We expect that where an authorised party is using a third party for these services, they have contingency plans in place to manage failure by this party.

We have removed Paragraph 12 of the draft authorisation condition, which placed on any Nominated Operator the obligation to ensure the continuation of the supply activity. This obligation will apply to all operators, including multiple operators on single networks.

### **Guidance**

We will review and further develop the guidance on ‘Continuity arrangements’, to incorporate feedback from the consultation where appropriate. This includes considering recommendations for additional items that would be held in an operator’s continuity plan as part of best practice, including further technical detail. We will further develop the template approach included in the draft guidance document and consider the presentation of this. We will clarify the interaction with requirements for single operators, and the boundaries between district and communal networks within guidance.

### **Other**

We would welcome discussions with trade bodies to explore if there is scope for a targeted list to be held by another party, which would identify suppliers willing and suitable to take over supply in the case of failure by an existing party.



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### 5. Special Administration Regime and further interventions

#### Section summary

This section summarises the responses relevant to the final two chapters of the consultation, ‘Special Administration Regime’ (SAR) and ‘Further interventions’.

We confirmed the decisions on these areas in the joint response with DESNZ in August, [Heat networks regulation: Implementing consumer protections. Government Response.](#)

The SAR is being introduced through secondary legislation and as such we did not ask any specific questions in this consultation but provided further explanation of how the regime would be used, and associated cost recovery proposals.

We also reiterated our intention to keep this initial suite of obligations under review and consider if further intervention is required.

5.1 Several responses questioned the applicability of SAR to particular heat network delivery models, suggesting that in the case of public and private partnership entities, local authorities who were partners in such entities would be well placed to step in to continue the authorised activity.

5.2 One respondent requested clarity around how a replacement zone operator would be appointed for a heat network zone and suggested that the relevant local authority or the Central Authority should be a backstop operator.

5.3 Some respondents raised the possibility of a sector-wide crisis caused by geopolitical events, with one requesting guidance on how a SAR might be used in such circumstances.

#### Ofgem Response

As detailed in the consultation, we anticipate that a SAR will only be used as a regulatory backstop in cases of insolvency where commercial solutions have been exhausted, and not to rescue networks which have been inadequately or improperly maintained. Any decision to use a SAR would be for government. Heat networks will be required to conform to minimum performance requirements during operation and maintenance through the Heat Network Technical Assurance Scheme (HNTAS) which DESNZ will consult on later this year.

We will continue to work with DESNZ as they bring forward legislation to introduce the heat networks SAR. We will consider jointly with government the development of guidance explaining the circumstances in which we anticipate SAR may be appropriate.

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There will be a further consultation on recovering the costs of a SAR so that arrangements are in place if they are ever needed.

The consultation also outlined our intention to continue to engage with stakeholders and monitor the sector as regulation comes into force. This will focus on whether our assessment of the risks of customers losing supply changes, and whether any further protections are required.

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## Appendix 1. Draft authorisation conditions

In this appendix, we have included updated versions of the draft authorisation conditions which are relevant to this document.

The full suite of authorisation conditions can be found in the following document [Heat networks regulation: authorisation conditions.](#)

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### **Appendix 2. Condition Title: Availability of Resources and Financial Responsibility Principle**

#### **13 Section A: Condition 13: Availability of Resources and Financial Responsibility Principle**

1.1 The authorised person must at all times act in a responsible manner that is calculated to secure that:

13.1.1 it has available to it such resources, including financial resources, on such terms and with all such rights, as needed to ensure that it is at all times able to properly and efficiently carry on each regulated activity that it is authorised (or treated as authorised) to carry on and comply in all respects with its legal and regulatory obligations, including under the authorisation conditions;

1.1.1 it is able to meet reasonably anticipated liabilities as they fall due, including in times of severe but plausible stress;

1.1.2 it takes appropriate measures to identify and manage risks; and

1.1.3 amounts collected from heat network consumers for the purpose of maintaining, repairing or replacing any part or parts of a relevant heat network in relation to which it carries on a regulated activity are available for the purpose for which they were collected.

13.2 The authorised person must notify the Authority immediately if its directors (or appropriate senior management representatives) do not (or should not) have a reasonable expectation that the authorised person will have available to it the resources (on the terms and with the rights) or will be able to meet reasonably anticipated liabilities as they fall due, in each case as referred to in paragraph 13.1 of this authorisation condition.

13.3 Where the directors of the authorised person (or appropriate senior management representatives) do not (or should not) have a reasonable expectation that the authorised person will have available to it the resources (on the terms and with the rights) referred to in paragraph 13.1 of this authorisation condition, the authorised person must not make any payment or loan or transfer any asset (except where that payment, loan or transfer is essential to the carrying on of the authorised person's regulated activities) if doing so would create a significant risk of the authorised person being unable to deliver each regulated activity that it is authorised (or treated as authorised) to carry on and/or unable to comply in all respects with its legal and regulatory obligations, including under the authorisation conditions.

13.4 This authorisation condition shall not apply where the authorised person:

13.4.1 is a Local Authority or an Excepted Company; or

13.4.2 carries on regulated activities only in relation to relevant heat networks that are either Industrial Supply Networks or Self-Supply Networks,

and where the authorised person carries on one or more regulated activities in relation to Industrial Heat Networks or Self-Supply Networks in addition to carrying on one or more regulated activities in relation to any other relevant heat network(s), this authorisation condition shall be construed as if it does not relate to the authorised person's activities in relation to Industrial Heat Networks or Self-Supply Networks.

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### Appendix 3. Condition Title: Operational Arrangements and Material Assets

#### Section A: Condition 12: Operational Arrangements and Material Assets

##### Operational Arrangements

12.1 The authorised person must ensure that, were it to cease to carry on any regulated activity (due to insolvency, revocation or transfer of its heat network authorisation, or in any other circumstances), its operational arrangements are such that any successor to the authorised person (including any administrator) would be able to efficiently and effectively carry on the regulated activity.

##### Material Assets to be capable of legal transfer

12.2 Subject to paragraphs 12.3 to 12.4 and to any Permitted Security Interests, the authorised person must ensure that at all times all Material Assets are capable of legal transfer to any successor to the authorised person in relation to the applicable regulated activity, including in circumstances in which there is a transfer or revocation of the authorisation, without either:

- 1.1.4 any requirement for consent, approval or agreement from or by a third party; or
- 1.1.5 the successor being unreasonably disadvantaged or subject to materially different terms.

12.3 Where a third party's consent, approval or agreement must be obtained to enable the legal transfer of a Material Asset to a successor to the authorised person, the authorised person will be treated as complying with paragraph 12.2 if such third party is legally obliged to provide its consent, approval or agreement subject only to conditions that are reasonable in all the circumstances of the case.

12.4 The authorised person need not ensure that a Material Asset is capable of legal transfer if, having considered all the circumstances of the case, the authorised person has satisfied itself that:

12.4.1 it is not reasonably practicable for the Material Asset to be capable of legal transfer; and

- 1.1.6 the fact of the Material Asset not being capable of legal transfer would not preclude a successor to the authorised person being able to efficiently and effectively carry on the applicable regulated activity in the circumstances set out in paragraph 12.1.

##### Restriction on security over Material Assets

1.2 The authorised person must ensure that there is no mortgage, pledge, lien, security interest or other charge or encumbrance or other agreement having the same economic effect over the Material Assets (a "**Security Interest**") except where it is a Permitted Security Interest.

##### Requirement for Sufficient Control over Material Assets

1.3 The authorised person must ensure that it has at all times Sufficient Control over the Material Assets.

##### No disposal of Material Assets

12.5 Except where required by law or by way of a Permitted Security Interest or as part of a transfer of the authorisation with the Authority's consent under regulation 24 of the Regulations or revocation of the authorisation with the Authority's consent under paragraph 15.1.1(a) of authorisation condition (Revocation), the authorised person must not liquidate, sell or otherwise dispose of any Material Assets if doing so would create a significant risk of the authorised person being unable

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to deliver each regulated activity that it is authorised (or treated as authorised) to carry on and/or unable to comply in all respects with its legal and regulatory obligations, including under the authorisation conditions.

### **Register of Material Assets**

12.6 By the end of the first part of the initial period, the authorised person must create and thereafter maintain a register of all Material Assets which shall, as a minimum, include appropriate, accurate and readily accessible information about the Material Assets including, in respect of physical assets, their condition and function (as applicable). The authorised person must upon request provide the Material Asset register to the Authority at any time after the first part of the initial period has ended.

### **Application of this authorisation condition**

12.7 This authorisation condition shall not apply where the authorised person:

12.7.1 is a Local Authority or an Excepted Company; or

12.7.2 carries on regulated activities only in relation to relevant heat networks that are either Industrial Supply Networks or Self-Supply Networks,

and where the authorised person carries on one or more regulated activities in relation to Industrial Heat Networks or Self-Supply Networks in addition to carrying on one or more regulated activities in relation to any other relevant heat network, this authorisation condition shall be construed as if it does not apply to the authorised person's activities in relation to, or Material Assets that relate to, Industrial Heat Networks or Self-Supply Networks.

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### Appendix 4. Condition Title: Continuity Arrangements

#### Section A: Condition 14: Continuity Arrangements

##### Continuity Plan

- 14.1 The authorised person must ensure that it has prepared and has in place, at all times after the first part of the initial period has ended, a continuity plan, which sets out the authorised person's strategy for safeguarding the continuity of each regulated activity that it is authorised (or treated as authorised) to carry on in the event that it ceases to carry on any such activity (the "**Continuity Plan**").
- 14.2 The authorised person must ensure that the information included in the Continuity Plan is accurate and is prepared with due skill and care.
- 1.4 The authorised person must ensure that the information included in its Continuity Plan is maintained and kept-up-to date at all times.
- 1.5 The authorised person must upon request provide the Continuity Plan to the Authority at any time after the first part of the initial period has ended.
- 14.3 The Continuity Plan must include all information in relation to each regulated activity that the authorised person is authorised (or treated as authorised) to carry on that a successor to the authorised person in relation to that activity would reasonably require in order to carry on the activity efficiently and effectively in accordance with its regulatory obligations, including information on:
- 14.3.1 key service providers and staff;
  - 14.3.2 Consumers;
  - 14.3.3 arrangements relating to the maintenance, updating of, and access to, all relevant metering and billing information;
  - 14.3.4 management structures; and
- 1.6 Material Assets.
- 14.4 The requirement for the information described in paragraph 14.5 to be included in the Continuity Plan will be satisfied if the Continuity Plan provides details of other documents or records (including electronic records) where that information can be readily obtained and those documents or records are either maintained by the authorised person itself or are available to the authorised person at all times under a legal or contractual right.
- 14.5 The Continuity Plan must also set out:
- 14.5.1 the authorised person's expectations of the process by which a successor to the authorised person would take over the carrying on of each regulated activity, including details of any arrangements in place for contractual step-in or pursuant to paragraph 14.9; and
  - 14.5.2 how the authorised person has complied with the requirements of authorisation condition (Operational Arrangements and Material Assets).

##### Continuity on transfer or revocation or ceasing to trade

- 14.6 Where the authorised person consents to a transfer of the authorisation (in whole or in part) under regulation 24 of the Regulations, seeks the revocation of the authorisation (in whole or in part) under paragraph 15.1.1(a) of authorisation condition (Revocation), is given notice of revocation (in whole or in part) under authorisation condition (Revocation), or otherwise intends to cease carrying on a regulated activity, the authorised person must take all reasonable steps:

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- 1.6.1 to ensure continuity of the regulated activity for each heat network consumer following the transfer, revocation or cessation, as applicable, on terms that are the same as or as similar as possible to the terms in place immediately before the transfer, revocation or cessation is to have effect; and
- 1.6.2 to minimise the risk of disruption and detriment to heat network consumers.

### **Continuity obligations for networks with a separate supplier**

14.7 Where, in respect of a relevant heat network, separate persons carry on the regulated activity of supply and the regulated activity of operating, where the authorised person is the operator:

- 1.6.3 the authorised person must ensure that arrangements are in place to enable it or a third party to carry on the regulated activity of supply in the event that the supplier ceases to carry on the regulated activity of supply; and
- 1.6.4 in the event that the supplier does cease to carry on the regulated activity of supply, the authorised person must either carry on the regulated activity of supply that has been so ceased itself or ensure that a third party does so.

### **Application of authorisation condition**

14.8 Paragraphs 14.1 to 14.8 of this authorisation condition shall not apply where the authorised person:

- 14.8.1 is a Local Authority or an Excepted Company; or
- 14.8.2 carries on regulated activities only in relation to relevant heat networks that are either Industrial Supply Networks or Self-Supply Networks,

and where the authorised person carries on one or more regulated activities in relation to Industrial Heat Networks or Self-Supply Networks in addition to carrying on one or more regulated activities in relation to any other relevant heat network, this authorisation condition shall be construed as if it does not apply to the authorised person's activities in relation to Industrial Heat Networks or Self-Supply Networks.



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### Condition Title: Definitions

We have included here the definitions from authorisation condition 3 which are used in the three financial resilience conditions in appendix 2, 3 and 4.

**“Local Authority”** means either a Local Authority (England and Wales) and/or a Local Authority (Scotland) as the context so requires.

**“Local Authority (England and Wales)”** has the meaning given to ‘Local Authority’ in s1 of the Local Government Act 2000.

**Local Authority (Scotland)** means a council constituted under s2 of the Local Government etc. (Scotland Act) 1994.

**“Material Assets”** means all assets, contracts or arrangements used or needed by the authorised person to deliver each regulated activity that it is authorised (or treated as authorised) to carry on and/or to comply in all respects with its legal and regulatory obligations, including under the authorisation conditions (including all plant, equipment, material spares, infrastructure, premises, IP arrangements and supply contracts).

**“Permitted Security Interest”** means a Security Interest which:

- (a) was in effect at the launch date;
- (b) arises as a matter of law;
- (c) is of a type that the Authority specifies is permitted under this authorisation condition or that the Authority has consented to being in place;
- (d) was conferred as a condition of the provision of finance to the authorised person on arm’s length terms;
- (e) is granted by a third party occupying a building or premises pursuant to a [demise or tenancy agreement] granted by the authorised person; and/or
- (f) is a wayleave or easement.

**“Sufficient Control”** means, in relation to Material Assets, having either direct ownership or other legally enforceable rights over them so that the authorised person can legally rely on them and enjoy the benefit of them.

We also note that the term **“excepted company”** is intended to be used in the Regulations (and hence does not need to be separately defined in the authorisation conditions) once they are amended to cover the following persons:

- (i) a private registered provider of social housing;
- (ii) a body registered as a social landlord under Part 1 of the Housing Act 1996;
- (iii) a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010.