Utility Regulator
ELECTRICITY GAS WATER

Assisting with Affordability Concerns for Vulnerable Energy Consumers

A Utility Regulator Consultation Paper

January 2010

Chapter 1: Summary

1. The Utility Regulator has produced this paper to contribute to the debate on the options for the introduction of extra help for vulnerable customers in relation to their energy costs. This paper has been drafted very much in a spirit of partnership and intended as a positive contribution to a complex debate. It has been produced in response to a request from a Ministerial department, and after discussion with a range of stakeholders.

2. The issues involved are many, complex and interwoven. The Utility Regulator might be able to facilitate some of the technical means of action if it is given the necessary statutory remit in the future; but at present many of the levers are currently not in our hands and we have only limited expertise in social policy within our own staff. In addition, we would argue strongly that wider political leadership is required as a pre-requisite for action and it is likely that other stakeholders have better access to relevant information sets.

3. Our work in this area in recent months has convinced us that there are a number of key questions that need addressed before stakeholders move on to subsequent stages of option analysis and potential implementation. To suggest a framework to encourage a subsequent debate, the paper offers for consultation the Utility Regulator's view on a set of key base questions in relation to energy affordability tariffs in the Northern Ireland context that we consider need to be thought through and decided upon as a Stage 1 pre-requisite for further refinement of policy approach.

4. Depending on the decisions reached on the Stage 1 questions, we propose a subsequent (Stage 2) piece of analysis and work during 2010 with and by key stakeholders would be required to produce a more refined option analysis and assessment undertaken **in light of the decisions reached in Stage 1**.

5. Then subsequently, given the necessary political direction, delivery mechanisms and legal instruments being in place, actual implementation would be the final Stage 3 piece of work to be undertaken. Timelines for this would only be known after Stage 2.

6. As a first step, this paper seeks consultation views from stakeholders in general and in particular from Northern Ireland's political leaders, as to their views on the key questions raised below and the three stage approach we propose that stakeholders should adopt.

7. To flesh this out in real terms, this paper covers:

a. Background and context (Chapter 2);

b. The Utility Regulator's role (Chapter 3);

c. Key Questions for Stage 1 (Chapter 4);

d. Likely issues for Stage 2 (Chapter 5);

e. Next steps (Chapter 6).

8. Comments are welcome on all aspects of this paper. To help structure issues, the paper also seeks comments and asks specific questions (summarised in chapter 6). If you wish to express a view on the specific questions or other matters raised in this paper, we would welcome your response by 12.00pm on Monday 12 April 2010. Responses should be addressed to:

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9. Please note - Individual respondents may ask for their responses, in whole or in part, not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, we will ask respondents to also supply us with the redacted version of the response that can be published.

10. As a public body and a non-ministerial Government department, we are bound by the Freedom of Information Act (FOIA) which came into full force and effect on 1January 2005. According to the remit of the Freedom of Information Act, it is possible that certain recorded information contained in consultation responses can be put into the public domain. Hence, it is now possible that all responses made to consultations will be discoverable under FOIA – even if respondents ask the Utility Regulator to treat responses as confidential. It is therefore important that respondents note these developments and in particular, when marking responses as confidential or asking the Utility Regulator to treat responses as confidential, should specify why they consider the information in question to be confidential.

Chapter 2: Background and Context

Background

Why we have produced this paper

11. In late 2007 the Utility Regulator's board held discussions on the affordability of regulated utility services for vulnerable consumers. We recognised the distinction between and importance of our powers and duties in relation to the exercise of our gas and electricity functions. The distinction is important.

12. In electricity we have a principal objective 'to protect the interests of [electricity] consumers, wherever appropriate by promoting effective competition…' We then have a primary duty to undertake our functions in a manner that is best calculated to further that principal objective having regard to certain specified matters.

13. In gas our principal objective is rather different. It is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland. Protecting the interests of consumers is something to which we must, among other things, have regard when undertaking our gas functions in a manner which furthers that principal objective.

14. However, in relation to both gas and electricity, in performing our primary duties (which as indicated above, differ as between the sectors) we must have regard to the interests of various groups of vulnerable consumers, including but not limited to, those who are disabled or chronically sick, of pensionable age, on low incomes, or living in a rural area. It may therefore be appropriate, in particular circumstances, for the Utility Regulator, when exercising its functions, to 'have regard to' other (unspecified) categories of consumer including, for the avoidance of doubt, those deemed to be potentially in need of affordability assistance. However, given the scope of our principal objective and our general powers and duties, the Utility Regulator Board considered that we could not pro-actively initiate work on affordability tariffs, the implementation of which, would not be likely to result in the interests of all consumers (whether individually or collectively) being protected, but that we should respond positively to requests for us to take forward development in this area.[1]

[1] NIAUR board minutes, December 2007, page 4: "The Chairman drew the discussion to a close by re-stating the statutory duties relating to low income consumers and individuals. He stated that account should be taken of these duties in price determination decisions. Drawing on the discussion, he noted that there were a number of ways in which the statutory duties could be given expression and there were opportunities, specifically in relation to tariff structures, for practically reflecting outcomes that addressed the needs of low income individuals and consumers. Although the Authority could not pro-actively lead initiatives on affordability tariffs, it should be ready to respond constructively and progress should be made in each of the utility areas in that context."

15. In the light of these discussions, the Utility Regulator was happy to participate in the Fuel Poverty Task Force convened by the Minister for Social Development in 2008. One of the outputs from this Task Force was a request to the Utility Regulator to assist with the formulation of policy options in relation to the introduction of 'social tariffs' in the energy sector in Northern Ireland. This consultation paper is in response to the Taskforce request.

16. In addition, more recently we have noted the 29 September 2009 debate in the Assembly on the issue of fuel poverty and social tariffs in the energy sector (Hansard Vol 43 No 6 pg 389-400) and the associated motion agreed:

"That this Assembly, being mindful of the alarmingly high levels of fuel poverty in Northern Ireland and the negative impact high energy prices have on the fuel poor, calls on the Minister for Social Development to work with her Executive colleagues to obtain an accurate assessment of actual need in respect of fuel poverty; notes that social tariffs could result in higher prices for a significant number of households and businesses; and urges consideration of a range of options to assist people most vulnerable to fuel poverty."

17. Again, we hope that our Consultation can constructively contribute to the discussions following on from that debate and the call to DSD for more work and clarity on the relevant issues. We understand that DSD continues to progress the work and actions following on from the work of the Fuel Poverty Taskforce and we hope this paper can make a positive contribution there also.

18. The paper concentrates on **Stage 1** of what we are proposing to policy-makers and stakeholders should be a three stage process:

Stage 1(through this consultation paper and subsequent debate with stakeholders and politicians/government departments) is to set out some of the broad policy questions that must be addressed before Northern Ireland can turn to more detailed consideration and design of specific options for interventions to deal with energy affordability for vulnerable customers.

Stage 2 would then be subsequent work by and with stakeholders, government departments and other interested bodies to fully develop and analyse best options for going forward.

Stage 3 would be to seek to implement the selected option.

19. The paper has achieved its final form as a result of various strands coming together: e.g. work undertaken earlier in 2009 for the Utility Regulator by Skyplex Consulting Ltd, various fuel poverty and HECA reports referenced below in the text, and a number of informal discussions between the Utility Regulator and a range of Northern Ireland stakeholders. We have also noted other related work

in this area, for example the recent report commissioned by Phoenix Supply Ltd ('A Feasibility Study into the Application of Social tariffs to the Natural Gas industry in Northern Ireland' May 2009).

20. We would like to express our gratitude for those who have offered support and wisdom so far and hope that, whatever route is chosen to progress the relevant issues, we can continue to maintain a wide dialogue in taking the debate forward – the issues involved are complex and a wide discussion and contribution from all stakeholders will be needed to effectively tackle the issues.

21. The e-links and references to some relevant papers are given here for ease of reference:

- Economic analysis for the elasticity of demand for energy in Northern Ireland: http://www.niaur.gov.uk/publications/view/an_economic_analysis_for_the_elasticity_of_demand_for_energy_in_northern_ir/
- Home Energy Conservation Progress Report (HECA Report) 2005 – 2007 http://www.angus.gov.uk/ac/documents/hecaprogressreport.pdf
- Utility Regulator Social Action Plan Decision Paper 2009-2012 http://www.niaur.gov.uk/news/view/utility_regulator_publishes_social_action_plan_decision_paper_2009_2012/
- 'A feasibility study into the application of social tariffs to the natural gas industry in Northern Ireland'; Phoenix Supply Ltd. May 2009.

Context to the issues raised in this paper

The Utility Regulator's current scope for influence

22. The primary focus of the DSD-led Taskforce to date has been on ***fuel poverty***. A household in fuel poverty is defined as one where:

> *"…if, in order to maintain an acceptable level of temperature throughout the home, it would have to spend more than 10% of its income on all household fuel use."*[2]

These costs are influenced by three main factors:

a. Energy costs;

[2] 'Ending Fuel Poverty – A Strategy for NI DSD 2004 available at: http://www.dsdni.gov.uk/ending_fuel_poverty_-_a_strategy_for_ni.pdf

b. Energy efficiency; and

c. Income levels.

23. The Utility Regulator has a limited influence over the first of these factors as by statute and in relation to energy, we regulate only the gas and electricity sectors. We do not regulate the heating oil sector and while we can help to drive down the controllable costs within Northern Ireland's regulated energy sectors, costs arising from international fuel markets are a more significant influence (wholesale costs constitute around half of annual domestic electricity and gas bills). We have a very limited role in energy efficiency (around 10% of the annual Northern Ireland spend on energy efficiency is raised by the Sustainable Energy Programme that we regulate) and no influence whatsoever over incomes including wages or benefits. Given our limited role, it is therefore perhaps to be expected that we do not have a statutory remit to address fuel poverty per se.

24. We do, however, have certain statutory responsibilities which specifically relate to the protection of consumers.

25. In electricity we have a principal objective in carrying out our electricity functions 'to protect the interests of [electricity] consumers…wherever appropriate by promoting effective competition…'.

26. In gas our principal objective is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry and in furthering this principal objective we are to 'have regard to', among other things, the need to ensure a high level of protection of the interests of gas consumers.

27. In both sectors we have secondary duties which provide that in performing our primary duties, we must 'have regard to' the interests of various groups[3] of vulnerable consumers - those who are disabled or chronically sick, of pensionable age, on low incomes, or (with regard to electricity) living in a rural area.

28. This list is not exhaustive and does not mean that we cannot or should not 'have regard to' other (unspecified) categories of consumer - which, for the avoidance of doubt, could include those deemed to be potentially in need of affordability assistance.

29. However, whilst we must, when exercising our functions, have regard to certain groups of customers, our statutory consumer protection remit (discussed in Chapter 3 below) applies to protecting the interests of all categories of energy

[3] DETI must also have regard to them in exercising its functions under the same legislation.

customer. Consequently, the regard to be given to the interests of 'vulnerable consumers' has to be consistent with protecting the interests of all consumers.

Northern Ireland's energy affordability problems

30. Northern Ireland energy customers are likely to be more prone to difficulty in affording adequate amounts of energy than those in the rest of the UK. Table 1 below taken from the report of the Fuel Poverty Taskforce in 2008 shows figures for household energy costs across all UK regions for 2006 (the table was provided on 13 May 2008 by Malcolm Wickes MP, Energy Minister, in response to a Parliamentary Question asked by Jo Swinson MP).

Table 1

Government office region	***Average annual fuel bill (£) - 2006***	***Annual fuel bill as a percentage of disposable income***
United Kingdom	826.30	3.0
North East	750.60	3.5
North West	814.30	3.5
Yorkshire and the Humber	810.30	3.3
East Midlands	775.80	3.0
West Midlands	827.50	3.3
East	847.90	3.1
London	751.70	2.2
South East	830.10	2.6
South West	803.50	3.0
England	805.00	2.9
Wales	868.20	3.7
Scotland	895.80	3.4
Northern Ireland	1,211.10	4.9

31. These differences, particularly in the context of household income, are considerable. Households in Northern Ireland spent more than twice as much of their disposable income on energy than households in London and around 60% more than the UK average and, within the current definition of fuel poverty,

households here required a weekly income to meet current fuel costs (as per table above) of around £233 per week or more. Compare this with London where a weekly income of £145 was required to meet fuel costs outlined above, or the UK average of £159 per week.

32. A higher level of fuel poverty here is likely to be explained by a number of factors. These include:

    a. Heat needs are higher because of our latitude and climate, and because of the higher proportion of rural households (not sheltered within towns). Although our houses are not on average less energy-efficient than in the UK as a whole, they actually really need to be *more* efficient. The average SAP[4] rating in Northern Ireland was 50 in 2006[5], which is equivalent to a E rated energy performance certificate on the A-G scale (A being excellent and G being poor) – this is the same as the average UK rating of a domestic property. There is no doubt that substantial gains have been made since the introduction of the Home Energy Conservation Act in 1996. Northern Ireland Housing Executive, Northern Ireland's HECA Authority, reports a 20% improvement in energy efficiency between 1996 and 2006[2]; the average SAP has increased from 35 to 50. Although it is recognised that much of the work to improve the fabric of dwellings has been done, the 2008 HECA report also recognises 'in the future we will become more reliant on changes in householder behaviour to achieve further improvements', along with 'greater use of renewable technologies'.

    b. Household incomes are lower, and we have higher rates of benefit dependency. In 2007/08 almost half the population of Northern Ireland had equivalised incomes of less than £300 per week, with a 'significant concentration of individuals below 60% of the UK median'[6]. Northern Ireland is also more dependent on benefits and tax credits than England, Scotland and Wales with 19% of income coming from state support (including pensions) compared with 14% in England; 31% of our households have a weekly income of less than £300 per week with almost half of these having less than £200 per week[7].

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[4] Household energy efficiency is measured using what is called a 'SAP' rating, which is a range from 1-100 (1 being poor and 100 being excellent).

[5] Home Energy Conservation Report 2007

[6] http://www.dsdni.gov.uk/index/stats_and_research/stats-publications/stats-family-resource/households/publications-hbai-2007-8.htm

[7] http://www.dsdni.gov.uk/index/stats_and_research/stats-publications/stats-family-resource/family_resources/publications-frs2006-07.htm

c. Energy costs are higher. This is a result of a number of factors. Heating oil predominates and its (unregulated) costs are higher. Retail gas costs are normally (although not just now) higher compared to Great Britain because of transportation costs, our small scale, and because the network is newer and has not yet been depreciated. Higher gas costs drive higher power costs since this is the main fuel for generation. 56.2% of fuel poor households use oil for heating, 15.8% use natural gas, 12.3% use dual fuel for home heating, 8.8% use coal and 6.7% use electricity. Energy costs have steadily increased for a number of years however 2008 saw some major price shocks including an 87% rise in the cost of fuel oil, an increase of 53% for the majority of households using natural gas, 52% increases in electricity charges and 25% increases in solid fuel costs[8]. Whilst these prices may have reduced this year, the net effect is that fuel costs are still increasing. Higher levels of benefit dependency, whether for reasons of disability, old age or unemployment, mean more households here require heat for more hours in the day, compounding the problem for these households; higher reliance on tax credits than other parts of the UK[7] suggests those in work receive lower wages and this, coupled with higher energy costs, intensifies the fuel poverty problem further.

Main policy responses to date

33. Because of the salience of affordability issues here, regulation has, over time, offered significant support to vulnerable consumers in Northern Ireland for example:

   a. Regulated electricity tariffs do not include a standing charge, and this reduces costs to low-users;

   b. Pre-payment (the tariff method of choice for those who must budget closely) is cheaper (in electricity) or the same price (in gas) as standard credit. This contrasts with the GB situation where pre-payment prices are generally higher.

34. Building on these successes, the Utility Regulator has recently published a Social Action Plan[9] focused on addressing financial insecurity, improving access to services and promoting energy efficiency. The plan sets out a number of strands of work to strengthen existing arrangements and to improve consumer awareness of them.

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[8] Home Energy Conservation Report 2007

[9] http://www.niaur.gov.uk/news/view/utility_regulator_publishes_social_action_plan_decision_paper_2009_2012

35. As regards the context of non-regulated household energy, suppliers of the main non net bound home heating fuels, heating oil, coal and LPG have no legal obligations to provide affordability support or access services for vulnerable consumers. However, voluntary agreements are in place between DETI and the oil, coal and biomass sectors to assist in meeting the requirements of the Energy End-Use Efficiency and Energy Services Directive[10]. The LPG sector is bound by a similar UK-wide agreement.

36. Until the Northern Ireland Executive decided to suspend household water charges, we were preparing to approve (in our role scrutinising Northern Ireland Water Limited's Scheme of Charges) an affordability tariff which would have been funded from the Northern Ireland Block providing around £45m per annum for 160,000 households.

37. In energy, the Northern Ireland Executive earlier this year approved £22.5m - the 'Household Fuel Payment Scheme' made a £150 payment to approximately 150,000 households. (Some 84,000 Pension Credit claimants (excluding those in Nursing Homes) and 64,000 Income Support recipients were eligible.)

Q1 (chapter 2): Are there any additional key context issues that should be noted?

[10] Information on the Voluntary Agreement can be found at: http://www.decc.gov.uk/en/content/cms/what_we_do/consumers/saving_energy/esdirective/esdirective.aspx

Chapter 3: What role can the Utility Regulator play?

38. This chapter considers the nature of the Utility Regulator's statutory remit and our role in the overall governance of the energy sector. It discusses whether we could lawfully implement a regulatory scheme to provide financial assistance to the poorest energy consumers; and whether such would be an appropriate role for a regulator.

Legal position

39. The Utility Regulator is a creature of statute with powers and duties arising directly under the enabling legislation. This means that, unlike Ministerial departments, we are only able to undertake those functions that are afforded to us under such legislation. In doing so we must act in a way that is best calculated to further the applicable principal objective for each sector and have regard to certain matters. Note that this is a double test: to remain within the law we must only act to deliver on a clear statutory function, and we must act in a way that will achieve the relevant principal objective. We are committed as public servants to remaining within the law and our powers; if we act *ultra vires,* we can be challenged by way of judicial review which can require us to change course.

40. We have discussed in paragraphs 11 – 14 and 23 – 29 above how our statutory remit differs as between the gas and electricity sectors. It is the case that there are key differences in, and therefore important distinctions between, our principal objective and statutory duties applicable to the exercise of our functions in each sector.

41. But there are also some similarities. Our secondary duties require us to have regard to the interests of certain specified categories of consumer – although that does not mean that we may not have regard to other unspecified categories of consumer.

42. Our legal advisors are clear that for us to actively devise and implement an affordability scheme that involved large scale cross subsidy of one group at the expense of another would likely be contrary to our statutory powers and general duties.

43. Our remit does require us have regard to the interests of various groups of vulnerable consumers, for example, those who are disabled or chronically sick, of pensionable age, on low incomes, or living in a rural area. We may also 'have regard to' other (unspecified) categories of consumer - which, for the avoidance of doubt, could include those deemed to be potentially in need of affordability assistance.

44. However, whilst we must have regard to certain groups of customers, given our current statutory remit, having such regard does not over-ride our principal objective or statutory duties to protect the interests of all consumers. We cannot therefore take action which might protect a particular sub-set of consumers but which would be detrimental to other consumers and thereby does not protect the interests of consumers as a whole.

45. The position in regard to the limitations of our current statutory remit is further demonstrated when one considers the current policy debates and resulting legislative requirements being discussed at national and EU level in relation to helping vulnerable energy customers. The Energy Bill[11] in the Westminster Government's recent plans for legislation in the forthcoming Parliamentary session, along with clarifying Ofgem's consumer protection remit, will specifically confer a power on the Secretary of State to create 'schemes' which require energy suppliers to provide help and assistance to consumers with the aim of reducing fuel poverty. This will put into statute the existing voluntary arrangement made with GB suppliers which is due to end in 2011. It is apparent therefore that if the Utility Regulator were to move to progress an affordability scheme without any new legislation in train, we would stand out quite apart from the rest of the UK and risk potential legal challenge.

46. It is also important to note that European Law relating to the energy sector (in the form of EU Directives) makes a clear distinction between the role of the regulators and the role of governments. EU Directives relating to the internal markets of gas and electricity, including the new Directives[12] reference the clear role of <u>governments</u> (as Member States), as opposed to National Regulators – who must be independent and pursue certain objectives that are set out in the Directives - in aiding poverty and stimulating the affordability agenda. The Directives confirm that:

> *"Member States shall take appropriate measures to protect final customers, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers." "Each Member State shall define the concept of vulnerable customers…" and "shall ensure that rights and obligations linked to vulnerable customers are applied."*
> (Article 3(7) Dir 2009/72/EC and Article 3(3) Dir 2009/73/EC)

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[11] The Draft Energy Bill can be viewed at:
http://www.publications.parliament.uk/pa/cm200910/cmbills/007/10007.i-ii.html

[12] Directive 2009/72/EC concerning common rules for the internal market in electricity available at :
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:01:EN:HTML and
Directive 2009/73/EC concerning common rules for the internal market in natural gas available at:
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0094:01:EN:HTML

> *"Member States shall take appropriate measures such as formulating national energy action plans, providing benefits in social security systems (social security benefits) to ensure the necessary electricity (gas) supply to vulnerable customers, or providing for support for energy efficiency improvements, to address energy poverty where identified, including in the broader context of poverty."*
> (Art 3(8) Dir 2009/72/EC and Art 3(4) Dir 2009/73/EC)

47. The new Directives also confirm that such measures may be measures which are taken within the general social security system.

48. In summary, the current legal position is that the Utility Regulator's ability to move ahead with organising and progressing any energy affordability scheme or 'social tariff' is limited by our existing statutory remit and would, we believe, require a new legislative basis to allow us to act and in an overall policy framework that government had considered as EU Directive compliant.

Q2 (Chapter 3) Comments are welcome on the potential and appropriateness for an expanded statutory remit for the Utility Regulator to allow regulatory mechanisms to potentially tackle affordability issues.

Structuring our response to aid the debate

49. Given the policy context above, we have produced this paper to positively contribute to the debate on helping vulnerable households with energy affordability. This paper has been drafted very much in a spirit of partnership and as a contribution to a complex debate.

50. The issues involved are many and complex. The Utility Regulator might be able to facilitate some of the technical means of action if it is given the necessary statutory remit; but many of the levers are currently not in our hand and we have only limited expertise in social policy within our own staff. In addition, we would argue strongly that wider political leadership is required as a pre-requisite for action and it is likely that other stakeholders have better access to relevant information sets.

51. Our work in this area in recent months has convinced us that there are a number of key questions that need addressed <u>before</u> we can move on with other stakeholders to subsequent stages of option analysis and potentially, implementation. To try to help structure debate, the main purpose of this paper is to elicit answers and comments on a set of key base questions in relation to energy affordability options in the Northern Ireland context that we consider need to be debated and decided upon as a Stage 1 pre-requisite for further refinement of policy approach.

52. Depending on the decisions reached on the Stage 1 questions, we propose a subsequent (Stage 2) piece of analysis and work during 2010, with and by key stakeholders, would be required to produce a more refined option analysis and assessment undertaken **in light of the decisions reached in Stage 1**.

53. Then subsequently, given the necessary political direction, delivery mechanisms and legal instruments being in place, actual implementation would be the final Stage 3 piece of work to be undertaken. Timelines for this would only be known after Stage 2.

Q3 (Chapter 3) Comments are welcome on the suggested staged approach to affordability policy/scheme development.

Chapter 4: Stage 1 Key Issues

54. Policy interventions are likely to fail or have regrettable side-effects unless they aim to achieve clear and compatible goals. In addition, as we have worked through the range of complex issues involved, it became clear to us that we could only go forward with developing and refining scheme options, if we had a clearer view on some underlying foundations. Hence our decision to seek to identify here so-called Stage 1 issues/questions that need early debate and resolution. They are:

    1. Purpose – what problem are we trying to alleviate?
    2. Size of policy intervention and implications for funding.
    3. Scope - Who should benefit and to what extent?

Q4 (Chapter 4) Have we identified the appropriate key Stage 1 questions / issues?

Stage 1 Question 1: Scope and Purpose - What problem are we trying to alleviate?

55. There needs to be clarity and decisions made in relation to the general objective of any proposed new policy and related scheme implementation. Is the policy to be aimed at tackling the broad concept of fuel poverty, that is, reducing overall energy bills, or to a more limited issue, such as, for example, helping vulnerable customers with electricity bills or alleviating distress caused by high bills?

56. At one end of the spectrum might lie a widely-cast policy objective to alleviate fuel poverty and hence reduce the inability of, especially vulnerable households (however defined) to keep warm and healthy at an affordable cost.

57. Fuel poverty is a much wider and deeper problem in Northern Ireland than anxiety solely about, for example, electricity bills. As noted above, fuel poverty is a product of the overall energy bill, which is a function of fuel used and price of that fuel, the requirement for heat and energy efficiency of the home and behaviour and adequacy of household income to meet the bill.

58. Financial insecurity can be a source of mental health and other problems, but the problems arising from the inability to afford adequate heat are more extensive and costly. They include significant health effects from cold and damp, negative effects on education in the young and social isolation in the old. Electricity costs

can in one sense be seen as part of a wider fuel poverty issue. However, by far the largest source of household heat is fuel oil (70% of households[13]), with natural gas, electricity and coal playing a smaller role (12%, 5%, 6% respectively[13]), so the problem in relation to affordable warmth must be seen as relating primarily to oil and gas, not electricity (although we recognise that 6.7% of fuel poor households heat their homes with electricity[14]). Oil is currently not a regulated sector in Northern Ireland of course.

59. A policy intervention that focused on the wide concept of fuel poverty might therefore arguably need to have elements that related to each of these levers. This suggests therefore required action across all energy sectors (not just those regulated by Utility Regulator), alongside joined-up policy interventions on benefit levels and energy efficiency. Whilst the Fuel Poverty Strategy has gone a significant way in encouraging a joined-up approach to tackling the issue, much of the progress has been made on energy efficiency. Much of the gain from energy efficiency has, unfortunately been eroded by energy price increases in recent years[14].

60. Given the complexity and breadth of issues associated with fuel poverty, there might be arguments in the short term to favour a policy that is designed to reduce concern about one element: electricity costs for example. Any relief on these bills would relieve pressure on household budgets generally. This might have some attractions:

    a. There can be little doubt that many low-income and vulnerable households struggle to pay all their essential bills, and that financial insecurity (including debt) is a source of anxiety and mental health problems. Our Social Action Plan includes a stream of work to ensure that good practice in managing consumer debt is applied across the regulated utilities. Although financial insecurity is a product of many different pressures, concern specifically about electricity bills is salient;

    b. This salience may well have increased given the volatility in electricity prices that we have seen in recent years, and indeed it was the 2008 increases in electricity bills above all that led to initiation of the Fuel Poverty Task Force;

    c. Focusing on electricity produces a simpler question than general fuel poverty, in that questions of energy efficiency are of some but limited importance; most

[13] NI House Condition Survey 2006 available at http://www.nihe.gov.uk/index/foi_publications/research-3.htm

[14] http://www.nihe.gov.uk/2008_heca_report.pdf

households can make the fastest efficiency gains by reducing their waste of heat, rather than by reducing their electricity consumption.

61. In principle, the argument in favour of addressing fuel poverty in the round is a strong one – it boils down to the question, why address only a small detriment (e.g. electricity affordability), when an opportunity is presented to address a large one? However, in the short term it may be the consensus view that there are significant pragmatic arguments against tackling the wider affordable warmth issue:

  a. As noted above, the Utility Regulator does not have the ability to influence most of the key factors that drive fuel poverty (income levels and prices of non-regulated fuels such as oil). Primary (Northern Ireland Assembly) legislation would be required to regulate the heating oil sector, and/or to give the Utility Regulator direct powers to steer the delivery of energy efficiency, and considerable further analysis would be required before such legislation could be even drafted.

  b. Because households spend more on heat, the money required to address fuel poverty would be proportionally larger than to address affordability issues solely in relation to electricity – we return to this issue below.

Q5 (Chapter 4) Comments are welcome on ‘scope and purpose’ questions/issues. Should any policy intervention be aimed at affordable warmth in the round or at a more limited problem such as electricity affordability and anxiety about bills?

Stage 1 Question 2: Size of policy intervention and implications for funding

62. Policymakers and stakeholders need to consider questions around the size of any scheme/policy intervention – size that is in terms of how many vulnerable households should be targeted for help; to what extent per annum; and what will be the resulting quantum of funds required each year to cover the scheme (net of administrative costs etc at this stage). Purely to help policy makers frame the issues for a debate, and in no-way to pre-empt debate or decisions, Table 2 below sets out a simple mathematical exploration in tabular format of related data. [As background, Northern Ireland for example has in total around 813,000 customer sites, of which 755,000 are domestic and 58,000 are non-domestic

(industry, public sector etc); 226,000 households were fuel poor in 2006 and is likely to 'have increased dramatically…as a result of escalating fuel prices'[15]].

63. Part (a) of the table shows for example that to help 100,000 vulnerable households (yellow column) by say £300 per annum (green row) would require a scheme fund of £30m per annum (blue box).

64. Part (b) of the table shows then (for the same examples of qualifying households and annual amounts of help) how much per annum other customers would have to pay for the scheme to be self-financing (i.e. we have assumed no extra new central government funding – see next sub-section on options for resourcing any future scheme). The 3 variants in pink in the left hand column allow results to be seen: at the top set of rows for a scheme where funding came from all electricity customers; middle row shows funding implications for only non-scheme-qualifying domestic customers; and bottom row shows results where the scheme is paid for by only 300,000 domestic households being those presumably most able to afford to contribute to the scheme.

Table 2

a)		Number of qualifying	Amount of annual help to qualifying				
			100	200	300	400	
		0	0	0	0	0	Amount needed for scheme (£m)
		50,000	5	10	15	20	
		100,000	10	20	30	40	
		150,000	15	30	45	60	
		200,000	20	40	60	80	
		250,000	25	50	75	100	

b)		Number of qualifying	Amount of annual help to qualifying				
			100	200	300	400	
Number of contributing customers: if scheme funding was collected from the **total** remaining electricity consumers	0	0	0	0	0	0	They would pay (£/year) more
	763,152	50,000	6.55	13.10	19.66	26.21	
	713,152	100,000	14.02	28.04	42.07	56.09	
	663,152	150,000	22.62	45.24	67.86	90.48	
	613,152	200,000	32.62	65.24	97.86	130.47	
	563,152	250,000	44.39	88.79	133.18	177.57	
Number of contributing customers: if scheme was paid for by **non-qualifying domestic** electricity consumers	0	0	0	0	0	0	
	705,247	50,000	7.09	14.18	21.27	28.36	
	655,247	100,000	15.26	39.32	58.99	78.65	
	605,247	150,000	24.78	49.57	74.35	99.13	
	555,247	200,000	36.02	72.04	108.06	144.08	
	505,247	250,000	49.48	98.96	148.44	197.92	
If scheme was paid for by **300,000** non-qualifying consumers	0	0	0	0	0	0	
	300,000	50,000	16.67	33.33	50.00	66.67	
	300,000	100,000	33.33	66.67	100.00	133.33	
	300,000	150,000	50.00	100.00	150.00	200.00	
	300,000	200,000	66.67	133.33	200.00	266.67	
	300,000	250,000	83.33	166.67	250.00	333.33	

15 http://www.nihe.gov.uk/2008_heca_report.pdf

Q6 (Chapter 4) Comments are welcome on the issues raised above in relation to the intended target size and scope of any intervention, size of fund required to deliver this, and impact on 'paying' customers.

Source of Funding

65. A key part of defining the parameters of any scheme will be identifying who pays in, and who benefits, and on what basis. These issues clearly both drive the overall impact of the scheme on different households.

66. There are essentially four possible sources of funding:

(i)The Northern Ireland Block

67. The funding for any new policy intervention might come from central government funds such as rates or general Northern Ireland expenditure block. Given current fiscal constraints a debate will be required on the appropriateness and likelihood of this taking place.

(ii) Energy companies

68. It is clearly the case that the revenues of energy companies are larger than their short-term costs, and this fact has led some observers to argue that these companies are highly profitable and that these profits should be used to fund provision to assist the poorest energy consumers.

69. However, this is a misunderstanding of the economics of the energy industry. Energy companies are required to make large investments. These investments are 'sunk' – the companies have no way to change their minds and reclaim their money. The companies need, over the lifetime of an asset, to recover sufficient funds to cover depreciation and pay for the sunk capital. If they do not receive such flows, they cannot withdraw their money (the capital is sunk) but will find it more difficult to access funds in future and may therefore struggle to make future investments. At best, the cost of capital for such investments will be higher because it will include a risk premium, and this will increase energy costs to consumers. It is therefore prudent to regard as profit only that part of energy companies' returns that exceeds their full costs, including a reasonable cost of capital (debt interest or dividends).

70. Assessing a reasonable return is part of the role of a regulator in setting price controls. Regulated profits are calculated explicitly to be the minimum necessary to allow the relevant industry structures to finance the obligations placed on

them[16] and thus are actually necessary payments to fund provision of equity or debt. Levying these funds would be likely to make more difficult the financing of necessary future investments. This would create a substantial detriment to future consumers, particularly at a time when we can see a clear need for large capital investments so as to improve network sustainability and security of supply.

71. We expect that costs falling on energy companies would be passed through to customers. This would be particularly transparent because of the extent of regulation in Northern Ireland, but is fundamentally not different to the process elsewhere. It is sometimes claimed that in the rest of the UK the companies themselves are contributing. However, as the basis upon which the supply companies pass costs on to customers is not price controlled, it is not transparent to what extent the customer eventually picks up the bill. In the long term all private companies will ensure that the investors receive returns sufficient to compete with other available investments, and indeed this is in the interests of consumers and society. It therefore seems likely that, in the long run, costs associated with energy companies' social initiatives are passed on to consumers also in GB via price changes in the normal competitive process.

(iii)Business customers

72. Northern Ireland businesses currently operate in an extremely competitive and difficult economic environment. Were businesses expected to contribute again to a 'fuel-poverty' levy, this would further increase business energy costs, which are in general already higher than in GB. However, since inclusion of business customers would reduce the burden on households, a debate is required on the appropriateness of this.

73. Further subsequent issues might arise in terms of special arguments for certain sub-sectors of business; e.g. the practicalities of stripping out small businesses and farms from any scheme would need to be verified.

(iv) Household customers

74. Provision to help the poorest customers with energy costs could be funded by other household customers. Thus the policy would involve some segment of the household customer base (criteria to be defined) to pay more (amount and mechanism to be defined) to allow the provision of extra funding/reduced tariffs to a receiving vulnerable segment of customers (criteria to be defined).

75. Having considered the issues involved, it is our view that the work involved in further defining options around these important policy criteria and mechanisms

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[16] Some out-performance of price controls allows additional returns (true 'profits' in the economic sense) but this is a short-term incentive and is soon re-captured for consumers.

should be done as a Stage 2 after initial high-level decisions are made on likely scheme funding source.

Q7 (Chapter 4) Comments are welcome on policy funding questions/issues. In the absence of additional new government funding, should any intervention on energy bills be paid for by all customers or a subset of customers?

Stage 1 <u>Question 3</u>: who should benefit and to what extent?

76. This question follows on from the two raised above – given options for resourcing any scheme, and given examples of funding implications, decisions need to be made on target scope for any future scheme. As we say above, we consider that defining the detailed criteria and mechanisms for any future policy intervention should be done as Stage 2 work. However, to provide a sufficient foundation for allowing options to be scoped out, a key question that needs discussed at Stage 1 relates back to the purpose and scope of any new policy intervention, and to the question of how many households the policy will seek to help and to what extent. (We note that there are a number of other elements potentially in this area, including best option for disbursing funds, administration arrangements, etc. We consider that these are more detailed option development issues that can wait for Stage 2).

77. In relation to a scheme that sought to address all of the 'fuel poor' (based on the definition of spending 10% of income on energy), it needs to be remembered that:

   a. The 2006 House Condition Survey suggested that 34% (226,000) of households here were in fuel poverty; this is likely to have risen somewhat since (see paragraph 62 above) due to price volatility, together with the impact of recession. Given the prevalence of fuel poverty, we must recognise that a scheme that aims to provide help to over a third of the customer base will either be extremely expensive for the contributing households, or else will provide very minor help for beneficiary households;

   b. One of the key issues in scheme design will be 'circularity'. Say for example that we attempted to help all of the fuel poor via a scheme paid for by other domestic households (rather than for example by central government funding), we create a risk that extra charges on those who are marginally outside fuel poverty might make them fuel poor and so not contributing, which means a further set of households will then be exposed to the same risk. The smaller grows the group of contributing households, the larger the extra costs so the more intense this problem. Ultimately, this risk creates a logical impossibility of all households being fuel poor and no-one paying into the scheme. In reality, we would soon hit acceptability barriers.

78. At the other end of the spectrum, a more limited scheme design might start from the principles that:

   a. We can only help a sub-set of the vulnerable[17];

   b. As much as possible, assistance should not be provided by the near-vulnerable, but by those who are well-clear of vulnerability (which might mean the top half of the market).

Q8 (Chapter 4) Comments are welcome on the issue of which customers should be targeted for help (and why) and to what extent per annum.

[17] Northern Ireland has recent experience in devising criteria for distribution of support. The 2008/9 Household Fuel Payment was provided to around 150,000 households: 84,000 Pension Credit claimants (excluding those in nursing homes) and 64,000 Income Support recipients.

Chapter 5: Likely issues for Stage 2

79. We have outlined in the chapter above the key issues that we think need to be debated and decided upon as a foundation for future policy development stages. If in light of the answers to those questions it is decided to proceed to a more detailed analysis of potential scheme options and design, then we have tried to set out below some of the other issues that would need to be worked through in the subsequent Stage 2 option development work. **Note – we have introduced these issues below only to give stakeholders a view of the likely range of Stage 2 issues that need to be dealt with – the list is probably not exhaustive**. Stage 2 issues will include:

(i) Mechanism for raising funds from non-qualifying households

80. If scheme funds are to be raised from other non-qualifying customers, rather than for example from central government funding, several issues and approaches need to be considered:

81. Should scheme funds be raised by for example a flat increase across all paying households, or by a percentage increase on bills or on unit costs? It might be argued that any 'scheme levy' should be charged not as a flat increase on the bill (the same absolute amount for all), but as a percentage increase. Applying a flat increase would lay the cost burden proportionately more on small electricity users. This might be a perverse outcome since these smaller users are themselves more likely to be vulnerable, and also because it would reduce the incentive to socially responsible constraint on consumption. A tariff mechanism for raising (and simultaneously disbursing) funds would also be an option; this is discussed further in paragraphs 83 and 88 below.

(ii) How might policy-makers decide who pays and how?

82. There are several broad approaches to collecting scheme funds from other non-qualifying users – we mention two here. The first might be to charge more to contributing households by reference to criteria that are external to the energy industry (such as income levels). We see a number of difficulties with this approach. We doubt the acceptability of energy companies levying an additional income tax. They do not have the data to do this, and we expect citizens might have some concerns about such sensitive information being released by

government (who does have it). Energy companies do not have any administrative systems to effect the levy on this basis, nor to avoid fraud.

83. Second, we could require the industry to charge a higher per-unit mark-up to households who use more energy[18]. This approach was recommended to us by Skyplex Consulting. The notion would be to load the costs of the scheme onto the highest using households. This approach would raise several issues:

   a. Consumption level would be seen here as a proxy for vulnerability on the admittedly very broad criterion that poorer people live in smaller houses and own fewer electrical appliances, while richer households live in larger houses and have more electrical appliances. These assumptions might be generally true. However, we see significant risk that some (perhaps large numbers) of vulnerable consumers might also be high users of energy because of poor energy efficiency (of dwellings, of appliances which may be older and less efficient in low-income households and in behaviour due to a lack of knowledge), because they are at home more of the time, because they use electricity for heat (not necessarily E7), or because they need to run special equipment e.g., medical equipment. How many potentially vulnerable users would be caught by higher unit rates above a threshold would depend partly on the level of that threshold. We are not yet aware of a good data set that would enable us to assess the potential risk in different threshold levels, and this is an area where we would welcome assistance;

   b. This approach would create a stronger marginal incentive for energy efficiency for higher users, which would be beneficial. (It would to some extent remedy the weaknesses of the EU Emissions Trading Scheme, which is setting a carbon price that is significantly lower than the social cost of carbon.) We note that there may also a risk of higher consuming households reining in consumption – they are likely to have more scope to do so – and the burden falling more on low income high consumption households who have less scope to do so or creating a heavier burden on all consumers due to costs being spread over a lower number of units;

   c. However, as noted above, we see dangers of confusion in designing a social scheme around environmental criteria, and so are minded to see environmental issues as of secondary importance.

[18] In practice this could mean a household being classified as a ‘high user’ (paying a higher per-unit rate) or a ‘low user’ (paying a lower rate). Or it could be implemented by devising a common charging scheme that applied to all customers, but where unit rates grew progressively larger, the more a consumer used within a given period.

Q9 (Chapter 5) Can respondents identify a data set that would enable us to assess the risks to different customer groups of equating 'high user' with 'not vulnerable'?

Q10 (Chapter 5) What other household characteristics are associated with higher or lower electricity consumption?

84. Whether or not extra financial help is provided to the poorest, energy efficiency will remain an important part of Northern Ireland's response to affordability issues – particularly for vulnerable households, where advice needs to be specific, pragmatic and easily actioned. Roll-out of an affordability scheme might be accompanied by such extra specific advice provided to households about efficiency. If so, debate is then required on how best this should be funded and delivered.

Q11 (Chapter 5) Respondents' views are welcome on the issues raised in relation to an appropriate mechanism for the collection of funds.

Q12 (Chapter 5) Views are welcome on need for enhanced energy efficiency advice for vulnerable households including size, resourcing and best-delivery options.

(iii) Issues around disbursing scheme funds

85. We consider that, in Stage 2, the questions of how best to disburse funds raised under a scheme may be the most complex part of designing a mechanism to aid the poorest consumers. Such design will need to cover the following factors:

   a. Whether to disburse via a tariff (automatic) or a fund (discretionary);

   b. What criteria for eligibility to use;

   c. Administrative practicality;

   d. Impact on the energy markets.

(iii a) Tariff or fund

86. Broadly speaking, support could be provided in one of two ways:

   a. A reduced tariff, which lowered the cost of energy; or

   b. A fund, which provided income support.

87. Help that reduces energy costs has more impact on the fuel poverty threshold than help that increases income. However, this may be a function of the way fuel poverty is calculated by government, rather than reflecting any real difference in impact on the recipient, and we welcome views on whether this is significant. Research[19] suggests increasing income rather than reducing expenditure may move some people out of fuel poverty as measured by proportion of income spent on energy but 'impinge little on how many feel fuel poor'.

88. By its nature, a tariff is an across-the-board approach. If appropriate criteria could be found, the tariff might be made available to recipients without them having to prove eligibility or provide extensive supporting information. This might make the process more user-friendly from the recipient's point of view. On the other hand, other consumers who were not eligible (but whose circumstances might be only marginally different) would not have any understanding of why they had not received support. This could lead to a large quantity of nugatory appeals, wasting resources and creating frustration. Other tariffs, such as a rising block tariff with lower prices for basic consumption and unit cost rising as consumption increases, could simultaneously raise and disburse funds however, an appropriate threshold for 'basic consumption' would need to be agreed and any subsequent changes in consumption patterns taken account of.

89. A fund would be more discretionary in character – not necessarily in the sense that no eligibility rules would apply, but in the sense that each application would involve constituting a dossier so it is more likely that an individual's circumstances would be correctly captured. While this is an advantage, it implies a potentially burdensome application process which might put off some eligible applicants. There is also the issue of extra costs associated with setting up new mechanisms and schemes to be factored into the Stage 2 debate.

90. Funds are in use elsewhere in the UK utilities sector, with a particular focus on alleviating debt.

Q13 (Chapter 5) Views are sought on the relative merits and disadvantages of helping the poorest energy consumers through a fund, or a tariff.

(iii b) Eligibility criteria

91. We see two broad options:

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[19] Waddams Price, C., Brazier, K., Pham, K., Mathieu, L., Wang, W.: Identifying Fuel Poverty Using Objective and Subjective Measures: CCP Working Paper 07-11: ISSN 1745-9648: May 2007: ESRC Centre for Competition Policy: available at http://www.uea.ac.uk/polopoly_fs/1.104604!ccp07-11.pdf

a. Use data internal to the energy industry (i.e., consumption); or

b. Use data external to the energy industry (e.g., benefits eligibility).

92. We have discussed above the merits of using consumption data as the basis for raising funds. One option would be to distribute money on the same basis, i.e. to low users. This might be an elegant solution. However, as discussed above its attractiveness depends heavily on the accuracy of consumption as a proxy for vulnerability, and the size of potential risks of perverse targeting.

93. As an alternative, one could (perhaps with government assistance) use criteria that are external to the energy industry: such as income, benefit entitlement or post-code geography/location.

   a. All other things being equal, income would be an excellent basis for distribution. Practically, however, the energy industry has no data set on incomes and nor as far as we know does the Northern Ireland Executive. (The only comprehensive household-level data set on incomes being held by HM Revenue and Customs.) The practicality of this approach is open to question, not only in relation to data protection and sharing issues but also in relation to defining income. For example, many households have their earnings supplemented by tax credits or housing benefit. Housing benefit usually covers some proportion of housing costs (up to 100%) however, often households are required to add to this to cover the actual costs; tax credits are calculated on the basis of family circumstances and many households receive a proportion of childcare costs which also must be enhanced to meet the full costs and many disabled individuals and households receive additional benefits to meet the increased costs associated with being disabled including transport for example. Add to this the impact of Winter Fuel Payments, Cold Weather Payments and the impact of additional income initially provided for by social security grants and loans, along with the impact of payback arrangements, which reduce weekly income, or the value of free school meals and school uniform grants or free eye tests or dental care. Many working families, amongst whom fuel poverty has increased by more than other households apart from retired households[20], are not entitled to such benefits and so, what would, at first, seem simple, becomes evermore complicated;

   b. In principle benefit levels are set on the basis of overall income and need, so might prove a reasonable proxy for vulnerability. However, this approach is open to the logical objection that giving an energy-related benefit to recipients itself alters the income:need relationship (consider also the impact as

[20] Derived from NI House Condition Survey 2006 available at http://www.nihe.gov.uk/index/foi_publications/research-3.htm

mentioned above). There would therefore in principle be some circularity to this approach. However, since benefit levels are set nationally, it is not clear whether this would be an issue in practice. Furthermore, over a quarter (27% in 2006[21]) of fuel poor households were working households and the use of benefit receipt as a proxy for fuel poverty would perpetuate the existing exclusion of these households from additional support;

c. NISRA produces a set of multiple deprivation measures (currently due for update in 2010). There are seven domains of deprivation that can be used at Super Output Area (SOA – contain around 2000 people per area) level, including income, health deprivation/disability (which could go some way to mitigating the low income/high consumption issue), employment (which might also help with high consumption owing to increased need for warmth) and proximity to services (which is a measure of rurality). A more geographically concentrated measure might be the Economic Deprivation Measure available for Output Areas (OA) consisting of 150 households however, whilst this is more concentrated geographically, the measure is narrower as it includes only income, employment and proximity to services, omitting health and disability data.

d. The Fuel Poverty Task Force's sub-group on targeting[22] recognises fuel poverty is multi-factorial and states the traditional method for defining households as 'vulnerable' is losing usefulness, suggesting a more specialist category is required such as 'fuel poverty vulnerable' which is driven by criteria that accurately predict fuel poverty likelihood. The report recommends new models be based on a weighted combination of the many factors which are proven predictors of current fuel poverty status and concludes a new way of targeting fuel poverty is essential. The sub-group recommended that a new model is needed which would incorporate a fuel poverty severity index, aspects of health, human behaviour and geographic location.

Q14 (Chapter 5) Respondents' views are welcome on the issues raised in relation to identifying eligible customers.

(iii c) Practicalities

94. We do not take for granted that funds arising from an energy affordability scheme would or indeed ought to be disbursed by energy companies. Alternative options

[21] NI House Condition Survey 2006 available at http://www.nihe.gov.uk/index/foi_publications/research-3.htm

[22] Liddell, C. and McKeegan, A.: Targeting the Right Households Draft Report: June 2008

would be the creation of a special vehicle (for example a trust fund administrator), disbursement through the third sector or disbursement directly by government.

95. If companies are to be the disbursement agents, they would need clear information about eligibility. We do not think it would be appropriate to require utility companies to carry out their own inquiries into consumers' financial circumstances, and we would also see significant scope for cost and fraud in creating such arrangements. Our understanding is that there are legal constraints on the ability of government to pass to companies a list of eligible households. However, such legal constraints might be possible to be addressed through Northern Ireland legislation and we would welcome input about the feasibility of such change.

96. The legal constraints might be mitigated by a solution whereby energy companies pass money collected under the scheme over to Government, who would then distribute it. This would have a number of advantages. It would likely avoid any data protection problems. It would use an already existing administrative machine to deliver the money (including appropriate audit). Government might also be thought to have more legitimacy in this role than private companies; however, we recognise that reducing energy prices may have a more significant impact on individuals than increasing income (see paragraph 87 above).

97. The DSD 'Household Fuel Payments Scheme' provides an example of benefits eligibility being used to target additional payments using existing entitlement criteria. However, DSD's experience of this scheme also provides food for thought about practical issues to be managed:

   a. Although the benefits eligibility criterion might be thought clear, it nevertheless raised a very large number of queries (many thousands);
   b. Some citizens considered it unfair, and indeed decisions to allocate the money to one benefits group and not others (when by definition all benefit recipients are needy) can be invidious.

Q15 (Chapter 5) We invite comments on an appropriate mechanism and potential costs for the disbursement of funds to eligible households.

(iii d) Impact on the energy markets

98. The Utility Regulator considers that, if appropriately implemented, retail competition can deliver price and non-price benefits to consumers - including vulnerable consumers. It would be important that any support scheme for the poorest consumers was implemented in a way that did not undermine the

development of competition across the whole market, or in particular market segments.

99. In this context we are mindful of the GB experience. In a fully competitive market, prices are set by suppliers with a view not only to recovering costs, but also to segmenting the market and recruiting profitable customers. Obligations to serve any or all customers, and to offer certain demographic groups a particularly attractive price or below cost price, do not sit comfortably with the market dynamic. Doubts might also be raised as to whether the managers of private companies are appropriate people to take decisions about eligibility for subsidies. These dilemmas are mentioned in the gas-related social tariffs research paper commissioned by Phoenix Supply Limited.

100. Our initial view, therefore, is that any scheme should be market-neutral. This means that costs should be levied, and support provided, by means that were invariant to which supplier serves a household. At its simplest, this might mean raising revenue via the networks elements of the relevant energy business. If disbursement were carried out by the industry, this might also be by the network element. Otherwise, we could require all suppliers to levy or distribute on an equivalent basis but in practice the burden on different suppliers might well vary depending on the make-up of their customer base.

Q16 (Chapter 5) We welcome respondents' views on the potential impact of affordability schemes on the retail market in Northern Ireland and potential for competition.

(iv) Consideration of 'exit' issues from the scheme

101. Special arrangements for particular customer groups are arguably easier to create than to get rid of. It would be important, when first designing any arrangements to raise or disburse funds to support eligible consumers, to give thought to how and when any such scheme might be brought to an end.

102. For an individual beneficiary of the scheme, the benefits would presumably be available as long as the justification remains valid. If access to scheme benefits were via some kind of application process, consideration would have to be given to how often eligibility was to be re-validated and the potential cost of such.

103. For the scheme as a whole, various approaches might be considered:

a. A sun-set provision. This would make the scheme time-limited. When it expired, the case for it to be extended or re-created would need to be made afresh;

b. An expiry threshold. For example, the scheme might be suspended if the unit cost of energy, or the average household energy spend, dipped below particular levels. Or the scheme might end if the average energy efficiency of Northern Ireland housing went above a particular level.

Q 17 (Chapter 5) Comments are sought on the appropriateness of creating exit provisions in a scheme, and on how these might best be designed.

(v) Criteria to consider in terms of option development

104. We suggested in our submissions to the Fuel Poverty Task Force that clarity about the criteria to be applied in judging a scheme and its delivery options/mechanisms is essential. We proposed the following criteria to the Task Force, and invite comments on these:

Policy responsibility must lie with government
Eligibility must be tightly defined and easily administered
Must be best value for money way of achieving project goals
Must be common agreement of what is a social tariff or Vulnerable Energy Users Fund
Must be competition neutral and not unduly discriminate between different classes of customer
Must minimise economic and environmental distortions
Must be capable of having an exit strategy

(vi) Evaluation of overall policy approach - PESTLE

105. We note for completeness that normal policy assessment and evaluation instruments will need to be brought to bear in Stage 2: for example, PESTLE-type analysis and that Equality and Section 75 considerations will need to come into focus should the policy debate move fully on to all of these Stage 2 issues. Indeed, we fully recognise that other stakeholders will have other issues to bring to the table in relation to Stage 2 issues and policy and option development.

Q18 (Chapter 5) Comments are sought on the proposed assessment criteria for any scheme.

Chapter 6: Next Steps

106. The Utility Regulator, whilst currently limited by our statutory powers, is interested in views of stakeholders on the following:

Q1 (chapter 2): Are there any additional key context issues that should be noted?

Q2 (Chapter 3) Comments are welcome on the potential and appropriateness for an expanded statutory remit for the Utility Regulator to allow regulatory mechanisms to potentially tackle affordability issues.

Q3 (Chapter 3) Comments are welcome on the suggested staged approach to affordability policy/scheme development.

Q4 (Chapter 4) Have we identified the appropriate key Stage 1 questions / issues?

Q5 (Chapter 4) Comments are welcome on ‘scope and purpose’ questions/issues. Should any policy intervention be aimed at affordable warmth in the round or at a more limited problem such as electricity affordability and anxiety about bills?

Q6 (Chapter 4) Comments are welcome on the issues raised above in relation to the intended target size and scope of any intervention, size of fund required to deliver this, and impact on ‘paying’ customers.

Q7 (Chapter 4) Comments are welcome on policy funding questions/issues. In the absence of additional new government funding, should any intervention on energy bills be paid for by all customers or a subset of customers?

Q8 (Chapter 4) Comments are welcome on the issue of which customers should be targeted for help (and why) and to what extent per annum.

Q9 (Chapter 5) Can respondents identify a data set that would enable us to assess the risks to different customer groups of equating ‘high user’ with ‘not vulnerable’?

Q10 (Chapter 5) What other household characteristics are associated with higher or lower electricity consumption?

Q11 (Chapter 5) Respondents’ views are welcome on the issues raised in relation to an appropriate mechanism for the collection of funds.

Q12 (Chapter 5) Views are welcome on need for enhanced energy efficiency advice for vulnerable households including size, resourcing and best-delivery options.

Q13 (Chapter 5) Views are sought on the relative merits and disadvantages of helping the poorest energy consumers through a fund, or a tariff.

Q14 (Chapter 5) Respondents' views are welcome on the issues raised in relation to identifying eligible customers.

Q15 (Chapter 5) We invite comments on an appropriate mechanism and potential costs for the disbursement of funds to eligible households.

Q16 (Chapter 5) We welcome respondents' views on the potential impact of affordability schemes on the retail market in Northern Ireland and potential for competition.

Q 17 (Chapter 5) Comments are sought on the appropriateness of creating exit provisions in a scheme, and on how these might best be designed.

Q18 (Chapter 5) Comments are sought on the proposed assessment criteria for any scheme.

107. Please note - Individual respondents may ask for their responses, in whole or in part, not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, we will ask respondents to also supply us with the redacted version of the response that can be published.

108. As a public body and a non-ministerial Government department, we are bound by the Freedom of Information Act (FOIA) which came into full force and effect on 1January 2005. According to the remit of the Freedom of Information Act, it is possible that certain recorded information contained in consultation responses can be put into the public domain. Hence, it is now possible that all responses made to consultations will be discoverable under FOIA – even if respondents ask the Utility Regulator to treat responses as confidential. It is therefore important that respondents note these developments and in particular, when marking responses as confidential or asking the Utility Regulator to treat responses as confidential, should specify why they consider the information in question to be confidential.

109. Any relevant information stakeholders wish to provide, additional to the specific questions above, would be welcome.

110. If you wish to express a view we would welcome your response by 12.00pm on Monday 12 April 2010. Responses should be addressed to:

Elena Ardines
Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
mailto:elena.ardines@niaur.gov.uk

Next Steps

111. The Utility Regulator will collate responses to this paper.

112. We are aware of Consumer Council Northern Ireland's recent community panels considering fuel poverty and social tariffs.

113. We are also aware of the current work by NIHE on the 2009 House Condition Survey, expected to be completed later this year, which will include up-dated information regarding the nature and extent of fuel poverty in Northern Ireland.

114. We expect specific next steps will become clearer in light of the outcomes of the Consumer Council panels and results of the 2009 House Condition Survey along with stakeholders' views on this paper.