



HEAT NETWORKS: A CALL TO PROPERTY OWNERS, DEVELOPERS AND THEIR ADVISERS TO ENGAGE NOW

Do you have development plans? Do you own or manage sites with multiple users of heat (residential or commercial)? Do you already operate a heat network?

If so, you need to engage now with government plans to encourage and regulate low carbon heat networks.¹ You have until 1 June to comment on proposals.

HEAT NETWORKS REGULATION

Government plans for heat networks link to the wider energy transition (see below). We have written about the existing support for these networks and proposals for future regulation here: <https://www.linkedin.com/pulse/heat-networks-what-next-ed-weightman/> and an article (written by Ed Weightman) recently appeared in Estates Gazette - <https://www.egi.co.uk/legal/why-the-heat-is-on-heat-networks/>. (Please note that since those articles were published, the consultation deadline has been extended to 1 June 2020).

WHAT SHOULD YOU BE DOING NOW?

If you are contemplating procurement of a new heat network, we recommend that you instruct your lawyers and other advisers at an early stage. It is important to remember that heat network agreements are long-term contracts and that these tie parties in to long-term obligations, including those in respect of payment. Both design and construction phases will be important and parties will wish to see that appropriately robust documentation is in place to achieve a heat network of the appropriate capacity and standard and to provide long-term protection. Where possible, parties procuring heat networks will wish to ensure that there is satisfactory protection to secure an alternative provider in circumstances of default, poor performance or insolvency of the provider. Parties will also likely wish to ensure that properties are configured in such a fashion as to optimise future heat options to the site and properties in question.

If you have a heat network, are you complying with the Metering and Billing Regulations (have you renewed your registration)? We know that OPSS looking at potential enforcement actions for non-compliance.

If you already have a network, or you are thinking about having one in the future, **we strongly advise that you engage now with the proposed new regime.** We can help you in formulating any response you wish to submit to the consultation:

- At the time of writing, the deadline for the consultation is 1 June.
- We agree that local planning, zoning and demand assurance should be used to encourage the development of

¹ <https://www.gov.uk/government/consultations/heat-networks-building-a-market-framework>



networks. We also agree that at present this is best approached via local and regional authorities. However, we think that this needs to be combined with more support for those authorities to enable them to develop coherent, informed and enforced policies. This means giving authorities funding, strengthening technical capabilities and devolving powers in decision making in respect to related utilities such as water, gas and electricity.

- Additional powers and rights for developers (land access, permitted development *etc*) are welcome as we know from experience that developers can struggle given the lack of rights and powers that established utilities have. We agree that these powers should be given via specific licenses and BEIS must give Ofgem funding to develop this capability properly.
- We support Ofgem being appointed as regulator with powers to develop and police a new compulsory (domestic) consumer protection regime. If heat networks are to be seen as an alternative to gas heating or direct electricity supply then consumers should be given similar protections. An authorisation regime (as opposed to the licensing model for gas and electricity suppliers) makes sense given the number and size of heat networks. However, it is important that Ofgem develops the details of this regime in consultation with the sector and that heat network providers are given time to adapt. There are aspects of the gas and electricity licensing regime, which is often accused of stifling innovation, which would not helpfully translate across.
- Setting minimum technical standards and decarbonisation targets for schemes seems necessary to achieve “net zero” along with market trust and confidence. Again, it makes sense for Ofgem to act as regulator so that regulation is not spread amongst too many regulators. However, Ofgem will need to develop capabilities in this area and we would like to know how this will interact for example with building regulations and other industry standards.

Now is also the time to **start thinking about how you would comply with (and thrive under) a new regulatory regime**. The broad outline of that future regime is starting to take shape. It is our experience that businesses that engage early make the most of the opportunities presented (and suffer least disruption).

THE ENERGY TRANSITION

Heat networks are part of the wider energy transition that presents significant opportunities for property owners and managers. To give just a few examples, an increased market for decentralised low-carbon power generation and creates opportunities to self-generate and sell power back to the grid. “Demand side response” rewards you for adapting your power consumption in response to price signals. EVs present opportunities to charge tenants’ cars. Energy Service Companies (ESCOs) offer various business models to help property businesses diversify, whether the motivation is environmental sustainability, social activism, or financial bottom lines.

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Penningtons Manches Cooper LLP has the breadth and depth of skills and experience needed to assist you. We combine our leading planning, real estate and construction practices with unique insights into energy regulation.

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traditional regulated energy businesses, as well as non-regulated businesses engaging with them (generators, networks, suppliers, intermediaries).

FIND OUT MORE

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