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Response to the BEIS consultation on exemptions from the requirement for an electricity licence

We welcome the opportunity to respond to this call for evidence. We think that the current exemptions regime is out of date and welcome a review in this area. We're particularly concerned that domestic consumers served under supply and network exemptions are missing out on vital protection and support, including access to Warm Home Discount scheme and, where prepayment submetering is used, protections from self-disconnection. It is also difficult and costly to enforce the limited rights they do have against being overcharged, as the only recourse is via small claims court.

Consumers being served under these exemptions also lack the choices that others have. This means that they cannot save money by changing supplier, and miss out on the benefits of smart metering. We're concerned that this lack of choice means they will fall further behind other consumers as new and innovative energy products and services become available that harness smart technology and reduce costs and carbon towards our Net Zero goal.

In our response we set out some initial views on changes to the exemptions regime to overcome these issues. We're currently conducting further research with landlords and tenants in the private rented sector, which is where our concern regarding the use of exemptions is focused. We look forward to sharing more views on reforms as this research completes later this year.

Q5. Are you responding as an individual or on behalf of an organisation? If responding on behalf of an organisation, What is your organisation?

Citizens Advice provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. We are the statutory representative for domestic and small business energy consumers across Great Britain.

Q41. Do you believe that current policy on exemptions has been successful, and why? If No, what improvements could be made?

No.

The current policy on exemptions provides too few protections for consumers in vulnerable situations and consumers who are recharged for energy by a third party. In addition, the current policy locks consumers out of the benefits of smart metering, access to rebates and the ability to shop around for a different energy supplier or tariff.

Consumers who are recharged for their energy (under a Class B exemption) include tenants living in properties where the landlord has chosen to manage the energy supply. This can be a single property with a single meter or multiple properties with a single meter (in which case estimations of energy use for each property can be used). Alternatively, private submetering can be used for people living in multi-dwelling units or accommodation blocks - and people living in park homes on private wire networks. Without a direct relationship with their energy suppliers, people living in properties with these arrangements have fewer protections and channels to challenge energy related issues.

The resale of energy under Class B is governed by the maximum resale price rules, which are set by Ofgem. These rules mean gas and electricity can only be re-sold at a maximum price of the amount that was paid for it by the purchaser (ie the landlord). However, there are no restrictions on additional costs for submetering where this is provided separate to the landlord's energy supply.

Tenants have little recourse if their landlord is overcharging for their energy use. They are excluded from the right to complain to the Energy Ombudsman and, instead, must pay legal fees to challenge their landlord at a small claims court. This is particularly concerning because we know that people in rented accommodation tend to be more financially vulnerable.

For example, our consumer service helpline recently helped a client who was living in a flat with a private prepayment submeter and received unexpectedly high electricity bills. The client had no information about whether the tariff was per unit, what the standing charges were, or who supplied the electricity. It was also unclear what proportion of the bills were additional charges from the private submetering company. The tenants in the converted block of flats had very limited access to the submeters to check their usage. The client felt that their bills were unfair, but did not know how to challenge this.

Similar issues can affect people living in park homes. Research from Consumer Focus found park home residents who are billed for their energy use by the site operator through a third party billing company lacked clarity and protections under current exemptions policy¹. The study found that the majority of park home residents with electrical problems pay for their electricity indirectly through the site operator or manager. These residents did not find the billing process clear and many struggled to understand how they were being charged.

Where problems and issues arise, these exemptions prevent these customers from choosing to move to a cheaper supplier or one with services that meet their needs and preferences. They are reliant on their landlord choosing a good deal for them, even though they may have little direct incentive to do so.

Current policy on exemptions presents a barrier to protecting some vulnerable consumers. Suppliers are unable to clearly establish which households are submetered, as they are only aware of the main meter and not connected submeters. Equally, not all consumers will be aware that they have a submeter. Ultimately, this means that vulnerable consumers with submeters are unable to access support from the energy supplier, for example through the Priority Services Register or the Warm Home Discount. In the case of tenants with prepayment submeters, they miss out on protections that make sure prepayment is safe and practicable, and support to keep people on supply if they can't afford to top up. This is unfair, and leaves vulnerable consumers at risk. For example, we've seen cases where a supplier has been unaware of a submetered customer who relies on a consistent energy supply for vital medical equipment.

These consumers also miss out on the benefits of smart metering. Where there is a single meter for the property the landlord may choose to get a smart meter fitted, but the tenant will not be able to access digital services that give advice on how to save energy, or connect smart devices with the meter without action by the landlord. Also, the landlord may be able to access half hourly consumption data related to the account, which could enable them to know when they are in or out of the property, without the tenants' knowledge or consent. This data has been classed as personal data and is governed by the Data and Privacy Framework.

Submetered tenants are not able to have SMETS-compliant smart meters installed, meaning they miss out on the benefits of smart technology and will be left behind. Previously, submeters replicated the features of a meter relatively well (albeit with some

¹Consumer Futures, [Living the dream?: An Investigation Into Life on Park Home Sites in England](#), 2012

issues regarding accuracy and maintenance dependent on the meter type and varying degrees of maintenance of submeters by landlords). But, with the growth of new smart features, such as topping up online or via an app, being notified when credit is low, seeing your usage and connecting smart devices with the meter, consumers with submeters are missing out. This gap could grow in future if more services are provided through smart meters connected to the DCC.

We set out ideas for how the exemptions regime can be improved for consumers in response to question 42.

Q42. What issues/objectives should future policy on exemptions take into account, and how? E.g. Government objectives on Net Zero, Green Recovery

Future policy on exemptions must ensure fairness for consumers wherever relevant. We've previously set out principles in relation to how consumers should be treated in a future, Net Zero focused energy market.² Aspects which are of particular relevance to exemptions are consumer choice, control over data, access to redress, and consistent protections across markets. In our response we have focused on supply exemptions, but similar issues could arise for customers on exempt distribution networks.

We think consumers should have access to choice in regards to their energy suppliers, wherever possible. Similarly, where smart meters are installed, consumers should have control over their data options. These changes can be achieved by tightening the criteria for when Class B exemptions can be used.

In any limited circumstances where the exemption is used, they must have a free, easy route to challenge the costs of the services. A route for challenges could be through access to an Ombudsman, rather than small claims court. Further, to ensure consumers are paying a fair total price for their energy, submetering costs should be considered in the Maximum Resale Price guidance, not just the cost of supply. Similarly, consideration should be given as to how these consumers can benefit from social obligations like Warm Home Discount and ECO, and from protections for people in vulnerable circumstances. Given the risks to health and wellbeing faced by consumers if they go off supply, we think serious consideration should be given to banning prepayment submetering of domestic premises, as it is unlikely that equivalent protections can ever be provided by a landlord to those required of an energy supplier.

We strongly agree that Net Zero objectives should be a focus of future policy on exemptions. Consumer confidence and ability to engage with energy are key to achieving

² Citizens Advice, [Setting Out Principles for a Future Energy Market](#), 2020

the behaviour change required to support the government's objectives on Net Zero. Giving all consumers the ability to choose their energy supplier is an important step, as it can enable consumers to select suppliers based on green tariffs and offerings. Using smart technology to monitor personal energy usage is another important tool for enabling positive behavioural change.

As more smart energy technology enters the market, there is a risk that consumers currently under the exemption policy will fall behind. This was evident in the way that submetered tenants have been unable to benefit from the smart meter rollout. In the future, new energy products and services that rely on smart meters will likely exacerbate these issues.

Similarly, they may enable landlords to choose products which are not suitable for their tenants, for example, a smart Time of Use tariff that has high prices at a time the tenant needs to use energy. This could leave tenants in a vulnerable position, and if prepay submeters are used, at higher risk of going off supply. It is essential that future policy on exemptions takes into account emerging energy models, to future proof consumer protections for tenants.

We think now is the right time for the government to address these issues. Consumers using heat networks face similar problems in that they are unable to choose their supplier and their supply is managed for them. It has been acknowledged that heat network users should have access to the same consumer protections as other energy consumers, which has prompted the welcome development of a new regulatory framework. Similarly, BEIS has committed to consulting on the regulation of third parties such as energy brokers, to ensure that the retail market regulatory framework adequately covers the wider market.³ Similar consideration should be given to consumers affected by exemptions. We are currently conducting research with landlords and tenants into energy issues now and in the future - including exempt supply - and are keen to share further findings from this work as it becomes available.

Q43. Government's aim is to ensure that all market participants, including those who are exempt, pay their fair share of policy and network costs. What is fair needs to be evaluated with a better understanding of the exemptions regime, this call for evidence seeks to understand costs implications for exemption holders. Do you agree with the Government's objective to ensure all market participants pay their fair share of network and policy costs?

³ BEIS, [Energy White Paper](#), 2020

Citizens Advice agrees that all market participants, including exemption holders, should pay their fair share of the costs to the system. Technological advances since the exemptions regime was first put in place are likely to mean the de minimis thresholds used may no longer be appropriate. If these advances have enabled greater use of exemptions, they are also more likely to have a material impact on the costs faced by other users of the energy system.

Q44. Currently, to benefit from a class exemption there is no requirement to inform BEIS or the regulator that the potential exemption holder meets the definitions of the exemptions order, and that they are exercising the right of an exemption. Do you agree that BEIS should have more information on stakeholders that meet the requirements and conditions of a class exemptions and can operate as exempt from licensing requirements?

If yes, how could BEIS access this information without imposing an undue burden on exemption holders? For example, would a notification requirement, or similar, be acceptable? How might it, or another system work in practice?

Yes. To ensure compliance with the rules, and to enable consumers to challenge unfair situations, it should be necessary for exemption holders to register.

Yours sincerely,

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