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*improving living in scotland*



**RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION ON  
THE SCOTTISH ENERGY EFFICIENCY PROGRAMME (SEEP):  
SECOND CONSULTATION ON LOCAL HEAT AND ENERGY  
EFFICIENCY STRATEGIES AND REGULATION OF DISTRICT  
HEATING**

**20 FEBRUARY 2018**

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## ABOUT HOMES FOR SCOTLAND

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Homes for Scotland is **the** voice of the home building industry.

With a membership of some 200 organisations together providing 95% of new homes built for sale in Scotland each year as well as a significant proportion of affordable housing, we are committed to improving the quality of living in Scotland by providing this and future generations with warm, sustainable homes in places people *want* to live.

Visit [www.homesforscotland.com](http://www.homesforscotland.com) for further information and follow us on twitter @H\_F\_S

## PROCESS

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Homes for Scotland represents members on a wide range of issues affecting their ability to deliver much needed homes.

Our views are endorsed by committees and advisory groups utilising the skills and expertise of key representatives drawn from member companies.

This consultation response has been discussed, drafted and approved by members of the Technical Group.

## HFS Response to SEEP: 2<sup>nd</sup> Consultation on LHEES and District Heating

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### Q1. Do you agree with our proposed overall approach to LHEES?

No

Homes for Scotland (HFS) does not support the overall approach to LHEES. The current proposals fail to consider the progress already made within the new build housing sector to improve energy-efficiency and reduce carbon emissions. The proposals focus too heavily upon only one form of low carbon energy technology, restricting the flexibility of the sector to bring forward cost effective solutions. The proposals also fail to consider to the basic practicalities of delivering such infrastructure such as legal ownership, operation, and maintenance of both the network and its associated assets.

National objectives set by the Scottish Government are already being met by the new build housing sector. With 2015 Building Standards showing a 75% reduction in carbon emissions from 1990 baseline levels, and EPC data (for new build housing) suggesting that energy use for lighting and space heating is less than half of the national average, we would argue that LHEES should be developed with a prime focus on tackling the significant challenge of improving energy efficiency and reducing emissions within existing housing stock. This challenge should not be underestimated. New housing output in 2016 totalled 16,904, with Scotland's total housing stock estimated at 2.58 million for the same year. In that context, new build output represented only 0.66% of the existing housing stock. Using the figures provided within the Climate Change Plan, it can be estimated that by 2050, only around 30% of housing stock will have been constructed to 2010 Building Standards or higher. This means that around 2 million existing homes will require some form of energy efficiency measure over the next 33 years in order for the Scottish Government to meet the obligations and targets set under the Climate Change Act.

The current flexibility afforded through the planning and building standards systems which has enabled the sector to deploy a range of cost effective low and zero carbon energy generating technologies over recent years. On that basis, it would seem sensible that a wider strategic socio-economic assessment is conducted to identify suitable areas of consideration for LHEES and exemptions to this policy, prior to placing a duty upon a local authority.

Greater clarity is needed on the proposed delivery model for district heating as well as defining the term "developer". Many local authorities assume that this should fall to a home builder as opposed to a utilities network operator who ultimately should be responsible to fund and deliver the network and assets they will own, operate and maintain across the lifecycle of the asset.

### Q2. What are your views on asking local authorities to report on tackling fuel poverty and climate change in the LHEES rather than the LHS?

Given the link between LHEES and built-environment services we are concerned that the obligation to report on fuel poverty and climate change may become an additional responsibility for local authority planning and building control departments. Given existing financial and resource constraints, this may detract resources from this function, absorb the additional income planning and building control departments are set to receive from increases in planning and building warrant fees to deliver and improve the performance of these services.

### Q3. Do you agree with our proposed overall approach to zoning?

Whilst we have no concerns with the general approach to zoning, we would reiterate that there is a need to conduct a wider strategic assessment to scope exemptions to this policy, which should include

new developments for the reasons previously outlined. Furthermore, the Scottish Government must ensure that the outcomes of zoning do not place any additional barrier to new housing development.

**Q4. What are your views on the proposed district heating consent process?**

We are acutely aware that local authority planning and building control departments are already under-resourced to deliver the range of statutory consents and services associated with new development and are expected to utilise the additional income generated from an increase in planning and warrant fees to improve service provisions. We are concerned that creating an additional consent, linked to development planning and to be conducted by a local authority, will only dilute this resource further still, compounding productivity issues across the sector. Where there is a requirement for district heating, consents for this form of 'infrastructure project' should not be connected with planning and rest independently.

Given the significant similarities to how new developments construct and connect users to existing utility networks, we would argue that the Scottish Government should seek to adopt similar processes to the delivery of this form of energy network and assets as is already understood by the development community.

Without full details of the 'requirements' set out by Scottish Ministers, it is difficult to offer views on the effectiveness of a consents process. If a new statutory consent is introduced, we would ask that the Scottish Government:

- Sets out statutory timescales for a 'first response' and 'decision' on an application.
- Monitors and reports on the performance of the consents process on a regular basis.
- Consider whether local authorities have the capacity and resource to act as sole verifiers of the consents process.
- Ensure that conditions do not impinge on the planning process.

**Q4a) The appropriateness of any potential options for a relevant body to act as 'the developer of last resort', to ensure completion of a development?**

Where a concession has been granted to a network operator to deliver a district heating network within a predefined zone, there should be sufficient evidence available to provide comfort to the network operator to invest in the delivery of the network and assets they will ultimately own, operate and maintain. It is vital that any intervention/requirement stemming from the production of a LHEES is justified and supported from robust evidence.

Where there is a requirement for a relevant body such as a local authority to act as 'the developer of last resort', it is vital that they have sufficient expertise and financial resource to complete the construction of the network. We have concerns whether local authorities will have this available to them.

**Q4b) Options for ensuring that district heating operators have similar or the same rights as other statutory undertakers for permitted development and wayleaves.**

As previously noted, we believe that the delivery mechanism for district heating shares similarities to that of other utility networks such as Scottish Water. In that context, we would support a district heating network operator having similar or the same permitted development and wayleave rights as other utility bodies.

**Q5. What are your views on the proposals for socio-economic assessment?**

We support proposals for the requirement to undertake a socio-economic assessment, and as previously noted would encourage the Scottish Government to conduct an additional assessment prior to the ones already identified in order to scope and identify suitable areas of consideration for LHEES and exemptions to this policy, prior to placing a duty upon a local authority.

We argue that the socio-economic assessment should provide a robust evidence base to justify proposals brought forward by LHEES, and that consideration is given to market demand and commercial viability of each proposal so as not to have a negative impact on local development plans.

**Q6. What are your views on the proposals for data for LHEES?**

There is a concern that the proposed datasets largely reflect the performance of existing buildings, therefore may skew the evidence base used to justify proposals stemming from LHEES. We also note that EPC data, whilst helpful, is not suitably robust as this only reflects assumed occupancy, not actual consumption. Similarly, current 'Smart' metering technologies also provide limited detail as the equipment does not record energy generation from low and zero carbon energy generating technologies (LZCEGT). In that context, it is worth noting that new dwellings constructed to 2015 Building Standards have a very low energy demand, with most including some form of LZCEGT. Where Air Source Heat Pumps (ASHP) are utilised, these can provide 100% of the space heating requirement as defined in the National Calculation Methodology (NCM).

It is therefore vital that consideration is given to the benefits and limitations of the data sources currently available, and this should be clear where they are used to evidence and justify proposals stemming from LHEES.

**Q7. What types of data information would industry be willing to provide a local authority or national delivery mechanism to develop LHEES, so that they can identify opportunities (potentially in aggregate) for heat demand reduction and heat recovery, both on and off site?**

Local authorities and the Scottish Government already have access to a significant amount of data with regard to new build housing. This includes Standard Assessment Procedure (SAP) calculations as submitted with a building warrant application and the data held within the EPC register.

**Q8. What data from industry would be most helpful in developing district heating projects?**

Whilst there are limitations, as noted above, Energy Performance Certificate (EPC) data can still be utilised to support the development of district heating projects. Mapping this data can help establish energy efficiency ratings and estimated energy use on a postcode basis and therefore used to support a network operator's decision to invest within particular areas where there is high energy demand. Homes for Scotland has previously asked that the Scottish Government make EPC datasets freely available, as is the case in England, to enable greater analysis of energy performance information. Further information may also be extracted from Scottish Government research such as the Scottish Household Survey and Regulation of Energy Efficiency in Private Rented Sector Housing on the energy profiles of existing housing stock.

**Q9. What data could be provided without compromising competitiveness of these organisations?**

As noted above, there is no additional data required above what is already in the public domain.

**Q10. What are your views on the proposed approach to district heating licencing?**

It remains unclear from the proposals who would be expected to fund, construct, operate and maintain a district heating network and therefore require a district heating licence. A home builder will not directly own, operate or maintain a utility network contained within a new site, however may work on behalf of a network operator to integrate and connect network infrastructure on site. A home builder should receive reasonable costs for connecting new customers to their networks and assets once they have been adopted by/vested in the operator. In that context, a home builder should not require a licence to construct assets on behalf of the network operator.

We believe that this should not be the case given: the network and assets will be constructed to the operator's specification and standards; the network and assets will be ultimately owned, operated and maintained by the operator, and the operator will seek revenue from new customers accessing their service provision.

Additionally, it is our opinion that it would be extremely challenging to effectively monitor and enforce any licence agreement for a district heating network as by their very nature a district heating proposal creates an energy supplier monopoly. The Scottish Government must therefore explore how they can encourage investment by operators to deliver solutions that offer direct benefit to end users as well as consumer choice of energy supply whilst not making housing provision a more difficult task.

**Q11. Taking into account the limitations of the Scottish Government's legislative competence in relation to consumer protection:**

**Q11a. What are your views on our proposals around consumer protection?**

Given consumer protection remains a reserved matter, we have genuine concerns of the increased likelihood of a monopoly occurring, and restricting consumer choice of energy supply. On that basis, it would be helpful to understand what role the forthcoming Consumer Scotland agency would have in "controlling" or "policing" heat network operators effectively and providing advice and advocacy to users.

We note that the Competition & Markets Authority is currently carrying out a market study examining heat networks in response to complaints that end customers may be unable to switch supplier and may be locked into very long contracts. Will the Scottish Government's proposals take into account the outcomes of the CMA's study?

**Q11b. How do you think could we provide a robust complaint resolution process in relation to district heating in Scotland?**

The UK Government is already considering proposals to introduce a housing ombudsman in relation to ongoing work on quality of new build housing, with it understood that this would be effective in Scotland. We would strongly oppose the introduction of an additional ombudsman as this could create confusion as to the responsibilities of each regime. We would also question the value that a Scottish ombudsman would have given the limited powers they would have to resolve complaints. In that context, it may be worth considering what role existing agencies such as Citizens Advice Scotland may be able to play.

**Q12. What are your views on how consumer advice should be provided for district heating customers in Scotland – what form should this take? Who should it be aimed at? What should be provided?**

In terms of new build, information and advice could be incorporated into consumer information packs upon the occupation of a new build home. However, information should also be provided by the network operator so that all customers connected to a network obtain the appropriate advice and information.

**Q13. What are your views on the proposed approach to connecting heat users?**

Generally, there should only be a requirement to connect an energy user to a heat network where it has been demonstrated and evidenced within the socio-economic assessment.

Furthermore, we do not support the proposed approach to encourage local authorities to deliver district heating networks through the existing powers granted to the authority under Section 3F of Town and Country Planning (Scotland) Act. We would advocate that Section 3F of the Planning Act does little but duplicate policy interventions under other governmental functions and as an unintended consequence limits the flexibility the sector has in seeking solutions to meet Section 6: Energy Standards. This view is supported by comments contained within the Seventh Annual Report on the Operation of Section 72 of the Climate Change (Scotland) Act (published March 2017) which states: “as practice and regulations have evolved over time, it has become clear that the key driver to emissions reduction is through Building Standards rather than Section 3F”. In that context this aspect of the proposed LHEES should be removed. Local authorities should however look to develop heat networks around strategic public authority assets (e.g. schools, hospitals, other public buildings) and encourage networks to branch off of these.

**Q14. What are your views on the proposed phased approach to non-domestic sectors with potentially usable surplus heat?**

No response.

**Q15. Requiring all regulated non-domestic sectors (see Box 1) with potentially usable surplus heat to carry out energy efficiency assessments, including heat (and its recovery, and onsite and offsite use), and implement recommendations where feasible.**

No response

**Q16. How should energy efficiency (including heat) be assessed across the regulated non-domestic sectors – including consideration for energy efficiency beyond the site boundary?**

No response

**Q17. Could a more consistent approach be achieved within the PPC regime, with the existing energy efficiency requirements for Part A sites being applied to Part B sites?**

No response.

**Q18. Which benchmarks or criteria should be used / considered in assessing energy efficiency?**

Energy efficiency should be benchmarked against levels set through the Scottish Building Standards.

**Q19. What range of industrial processes should be covered, including size and sector, and why?**

No response.

**Q20. What are your views on the establishment of a national delivery mechanism to support local authorities in delivering their proposed functions for LHEES and district heating, and which could support the delivery and governance of SEEP more widely? What form should it take?**

No response.

**Q21. Please let us know any views you have on the most cost-effective way of supporting schemes that are socio-economically appropriate and in line with local authority LHEES.**



District heating policy should in the first instance be directed towards the existing building stock, where need, demand and its social, economic and environmental benefits have been robustly demonstrated.

The progress already made in the new build sector will mean that it is highly unlikely that there would be any tangible benefits from the incorporation of a district heating system on a new development as low carbon heat can already be delivered through alternative means, for example Air Source Heat Pumps (ASHP). In that context it is highly unlikely that district heating would prove to be a cost-effective means to delivering low carbon heat on a new development.

**Q22. We would welcome stakeholders' views on our suggested approach to wider UK heat market reform, and in particular:**

**Q22a. Any additional evidence that can be offered around the approach that should be taken to decisions on decarbonisation of the gas supply?**

Whilst district heating may offer a more efficient way to distribute energy, there will remain a need to invest significantly in the decarbonisation of the gas supply, to make district heating truly low carbon. Given this requirement to meet carbon reduction targets, it would seem logical that the Scottish Government invest in the decarbonisation of the grid, rather than decentralisation of it.

We are aware of some home builders who are already investigating the theoretical potential to remove gas networks from new sites, given the growing use of new low and zero carbon energy generating technologies to meet space heating and domestic hot water requirements. Further decarbonisation of the electrical grid will likely result in further carbon efficiencies, increasing the overall benefit of utilising these technologies. It should be noted that this analysis is still in its infancy.

**Q22b. Any views on the issues being considered within the remit of the ADE taskforce?**

No response.

**Q23. Please tell us about any potential impacts, either positive or negative you feel our proposed approach may have on particular groups of people, with reference to the "protected characteristics" listed above.**

No response

**Q24. Are there any special provisions / measures we should consider / make / include:**

**Q24a. To ensure protected characteristics are taken account of in the LHEES? In your opinion, should the LHEES process specifically include / address the protected characteristics?**

There should be no barriers to any individual wishing to engage in this process. However, LHEES must be based upon a robust evidence base.

**Q24b. To ensure protected characteristics are taken account of in the socio-economic assessment? In your opinion, should that process specifically include / address the protected characteristics?**

There should be no barriers to any individual wishing to engage in this process. However, socio-economic assessments and their recommendations must be based upon a robust evidence base.

**Q24c. In terms of the installation of networks in order to minimise disruption to people with mobility problems or any other protected characteristic?**

No response.

**Q24d. In terms of consumer protection, that would better assist in ensuring that people with protected characteristics will be safeguarded (taking account of our limited legislative competence in this area?)**

No response.

**Q24e. In terms of communications, that would better assist in ensuring that people with protected characteristics will be kept informed and can fully participate?**

No response.

**Q25. Please tell us about any potential costs or saving that may occur as a result of our proposed approach and any increase or reduction in the burden of regulation for any sector.**

It is highly unlikely that the proposals contained within this consultation will result in cost savings for home builders. The current proposals seek to incorporate a number of additional processes for obtaining consents and licencing for the delivery of district heating networks which, outwith the costs of applications, has the potential to cause further delays to project timelines if verification services are not sufficiently resourced and funded by the Scottish Government. Furthermore, as new homes are already highly energy efficient, and with more cost-effective low carbon heat solutions available to the sector, it is unlikely that a heat network would ever be economically viable.

**Q26. Please tell us about any impact on individual privacy / data that may result from our proposals.**

No response.

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