HOUSE OF LORDS Library Briefing

Rising Household Energy Costs and Consumer Protection

Debate on 3 February 2022

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On 3 February 2022, the House of Lords is due to debate a motion moved by Lord Whitty (Labour) that "the Grand Committee takes note of the cost of living, and in particular (1) the rising cost of household energy, and (2) the role of the consumer protection regulatory regime in energy markets".

In December 2021, the inflation rate (as measured by the consumer prices index) reached its highest level since the 1990s. The Bank of England expects inflation to peak at around 6% in April 2022, predominantly accounted for by the impact of rising wholesale gas prices on utility bills. Wholesale UK gas market prices hit an all-time high in December 2021, following previous high prices in October 2021. A combination of factors is responsible for the price rise, including colder weather, increasing global demand, falling gas supplies from Russia, and outages and maintenance of key infrastructure.

The energy regulator Ofgem is due to announce in February 2022 what the default tariff cap will be for April to September 2022. As the price cap will factor in wholesale prices over the previous six months, it is expected that the cap will rise. Some estimates suggest the amount paid by the typical customer could nearly double. Since August 2021, 27 energy suppliers have gone out of business. Some have blamed the effect of the price cap, arguing it meant they were supplying energy at a loss. It is estimated that the costs of supplier failures could add an extra £80 to £120 to every household energy bill. Rising bills could lead to an increase in the number of households in fuel poverty. Organisations such as the Resolution Foundation and Age UK have predicted the effects will particularly impact lower income and older households.

The main objective of Ofgem's governing body is to protect the interests of existing and future consumers of gas and electricity. Ofgem has been taking actions, including in conjunction with the trade body Energy UK, to address the needs of vulnerable customers. However, it has faced criticism for not doing enough to protect them. Citizens Advice published a report in December 2021 arguing that Ofgem had failed to act against energy suppliers, leaving the market vulnerable to the spike in wholesale prices. Ofgem announced a package of measures in December 2021 intended to increase the financial resilience of retail energy suppliers. It is also considering a range of proposals for changing the way the price cap mechanism works, especially in times of market volatility.

The Government says that consumers are supported through the price cap mechanism, and a range of support is available for vulnerable customers, such as the warm home discount, the winter fuel payment, cold weather payments and a new household support fund. The Government is intending to refresh its Energy Retail Market Strategy for the 2020s to take account of lessons from recent market developments, including possible changes to the energy price cap.

1. Rising cost of living

The consumer prices index (CPI) rose by 5.4% in December 2021 compared to the previous December.[1] This is the highest inflation rate since January 1997 when this measure of inflation began and, using historical modelled data, the highest since March 1992 when it stood at 7.1%. In mid-December 2021, the Bank of England said it expected inflation to remain around 5% through the majority of the winter period, and to peak at around 6% in April 2022.[2] It said this additional increase in the spring was predominantly accounted for by developments in wholesale gas prices having a lagged impact on utility bills. The Bank said there were expectations of further price increases in 2022, driven in large part by pay and energy costs, but CPI inflation was still expected to fall back in the second half of the year.

This briefing focuses on the impacts of rising energy prices. Other factors related to the cost of living, such as rising food prices and the impact of tax and benefit changes on household budgets, are explored further in a recent House of Commons Library briefing, on *Rising Cost of Living in the UK* (20 January 2022).

2. Rising energy prices

Wholesale UK gas market prices hit a new all-time high on 21 December 2021, reaching as far as 470p a therm.[3] This is about nine times higher than prices a year ago. The rise was attributed to cold weather increasing demand while Russian gas supplies to Europe fell.

The new price reached in December followed previous record high prices seen in October 2021. Professor Michael Tamvakis, professor of commodity economics and finance at Bayes Business School (formerly Cass), said that the rise in gas prices in autumn 2021 was partly due to the UK receiving less wind than usual, lowering the output from wind turbines and leading to increased demand for gas for electricity generation.[4] In addition, Professor Tamvakis said that Russia was "refilling [gas] stocks 'less energetically', possibly with a view to leveraging a dominant position in opening up gas flow through the controversial Nord Stream 2 [pipeline]". Finally, Professor Tamvakis noted that high oil prices in east Asia have led to higher gas prices because gas is priced on an oil-indexed basis in that market.

Around half of Britain's gas supplies come from North Sea gas fields; the rest is imported from a variety of sources, including pipelines linking the UK and Europe, and liquified natural gas shipped in from around the world.[5] This makes the UK sensitive to price rises in the global gas market. Changes in the wholesale price of gas can affect domestic consumers. For instance, around 85% of UK homes use gas central heating.[6] Furthermore, gas is used as the fuel to generate around a third of the UK's electricity, so rising gas prices have led to rising electricity prices.[7]

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[1] Office for National Statistics, 'Consumer price inflation, UK: December 2021', 19 January 2022.

[2] Bank of England, 'Bank rate increased to 0.25%—December 2021', 16 December 2021.

[3] Emily Gosden, 'Gas prices hit fresh record high as Russian supplies fall', *Times*, 21 December 2021.

[4] Hamish Armstrong, 'What is behind rising gas prices?', Bayes Business School, 28 September 2021.

[5] Ofgem, 'Infographic: Energy security', 28 May 2020, updated March 2021.

[6] BBC News, 'Why are gas prices so high and what is happening to fuel bills?', 12 January 2022.

[7] House of Commons Library, *The Energy Price Crunch*, 14 January 2022.

Industry experts have suggested that energy prices could remain high for the next eighteen months to two years. In mid-January 2022, the chief executives of Centrica, which owns British Gas, and Ovo, another energy firm, suggested global market prices would not fall before 2023.[8]

Analysts have warned that tensions between Russia and Ukraine and the possible impact on approval of Nord Stream 2, a new gas pipeline from Russia into Europe, could affect European gas prices.[9] Dr Fatih Birol, executive director of the International Energy Agency, said in mid-January 2022 that the data indicated "strong elements of 'artificial tightness' in European gas markets, which appears to be due to the behaviour of Russia's state-controlled gas supplier".[10] He said that unlike other suppliers, Russia had reduced its exports to Europe during the fourth quarter of 2021, despite the exceptionally high market prices. He suggested this "lack of sufficient supply from Russia", along with 2021's "exceptionally rapid global economic rebound", outages and maintenance of key gas infrastructure, were "driving broader energy market turbulence in Europe".

3. Energy price cap

Ofgem, the energy regulator, sets a default tariff cap that limits the amount suppliers can charge consumers for a unit of energy on the supplier's default or standard variable tariff.[11] Each year, Ofgem announces in February the default tariff cap that will apply from April to September, and in August it announces the level that will apply from October to March the following year.

In August 2021, Ofgem announced that it was increasing the cap for the period 1 October 2021 to 31 March 2022 by 12% compared to the previous period.[12] This meant that the annual energy bill for a customer using a typical amount of gas and electricity and paying by direct debit would be £1,277, up from £1,138 under the previous cap. This amount does not represent the maximum that an individual customer could pay. Rather, it is intended to illustrate the amount a reference customer would pay. Ofgem explains that "the default cap sets maximum prices, not maximum bills. For an individual customer, the amount they will pay under the cap varies depending on how much energy they use, where they live, and how they pay for their energy".[13] Not all customers are on tariffs where the cap applies. For instance, customers on a fixed-rate tariff which guarantees the unit prices they pay for their energy will not see their bills rise for the duration of their fixed rate, even if the default tariff cap rises.

Ofgem said that the rise in the cap was mainly driven by higher wholesale energy costs, amounting to an additional £155 annually for a customer with a typical energy usage pattern.

Ofgem is due to announce in February 2022 what the default tariff cap will be for April to September 2022. As the price cap will factor in wholesale prices over the previous six months, it is expected that the cap will rise. The chief executive of Ofgem said in October 2021 that the rise could be

[8] Emily Gosden, 'Centrica's Chris O'Shea: High energy prices will be the norm for 'two years'', *Times (£)*, 13 January 2022.

[9] Nicholas Earl, 'Gas prices soar amid supply shortage fears as Russia-Ukraine tensions escalate', City AM, 24 January 2022.

[10] Faith Birol, 'Europe and the world need to draw the right lessons from today's natural gas crisis', International Energy Agency, 13 January 2022.

[11] Ofgem, 'The default tariff cap', accessed 27 January 2022.

[12] Ofgem, 'Default tariff cap update from 1 October 2021', 6 August 2021.

[13] ibid.

"significant" because of the unprecedented rise in gas prices.[14] Industry and consumer estimates have suggested that the annual amount paid by the typical customer could go up from the current level of £1,277 to between £1,890 and £2,240, or even as high as £2,400 in 2022.[15]

The Government confirmed in October 2021 that the current price cap mechanism would remain in place for 2022 "as the conditions for effective competition are not yet in place for domestic supply contracts".[16] The Domestic Gas and Electricity (Tariff Cap) Act 2018 enables the price cap mechanism to be extended on an annual basis up to the end of 2023. The Government has said it will legislate when parliamentary time allows to extend the price cap beyond 2023, subject to conditions for effective competition not being in place.[17]

Ofgem has stated that "the additional costs and uncertainties facing suppliers are likely to be beyond what is accounted for in the existing price cap methodology".[18] It is currently considering proposals to amend the price cap methodology (see below).

4. Energy company failures

Since August 2021, 27 energy suppliers have gone out of business.[19] Some have blamed the effect of the price cap. For instance, Bulb, which went into special administration in November 2021, said that "the price cap—designed to protect customers—currently means suppliers provide energy at a significant loss".[20] It noted that the current domestic price cap is 70p per therm, when wholesale prices were reaching up to £4.00 per therm. However, Greg Hands, Minister for Energy, Clean Growth and Climate Change, argued that energy suppliers knew about the tariff cap and should have been "properly hedged".[21] Hedging allows companies to purchase supplies of energy in advance with the intention of minimising their exposure to fluctuations in the market price. Mr Hands argued that "a well-hedged company has been in a much better position to ride out the big increase in global prices we have seen, in particular in the last two to three months".

If an energy supplier becomes insolvent, Ofgem can appoint another supplier to take on its customers under the supplier of last resort process.[22] Ofgem must be satisfied that the new supplier can supply the additional customers without prejudicing their ability to continue to supply their existing customers. The customers of most of the energy companies that went out of business in 2021 have been moved to new suppliers using this process. However, if Ofgem cannot appoint a new supplier using this process, for example because of the size of the failing supplier, it can establish a special

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[14] BBC News, 'Energy prices: Significant rises to come says regulator Ofgem', 8 October 2021.

[15] Samantha Downes, 'Energy prices: household bills 'to rise by at least £600 by April and up to £1,000 by next October', iNews, 23 December 2021; and Nathalie Thomas and David Sheppard, 'UK homes face fresh energy pain with price cap set to hit £2,400 this year', *Financial Times* (£), 14 January 2022.

[16] House of Commons, 'Written Statement: Energy Default Tariff Cap: Effective Competition Decision', 29 October 2021, HCWS356.

[17] House of Commons, 'Written Statement: BEIS Update', 15 December 2021, HCWS497.

[18] Ofgem, 'Overview of 19 November 2021 price cap consultations', 19 November 2021.

[19] Citizens Advice, 'Check who's taken over your energy supply', accessed 26 January 2022.

[20] Bulb, 'Bulb in special administration', 22 November 2021.

[21] House of Lords Industry and Regulators Committee, *Corrected Oral Evidence: Ofgem and Net Zero*, 30 November 2021, Q218.

[22] Ofgem, 'How you're protected when firms collapse', 14 October 2021.

administration regime. This means that a special administrator is appointed to run the company until it is rescued (eg through restructuring), sold or has its customers transferred to other suppliers. Bulb, the largest company to fail in 2021, has been put in special administration.

The failure of energy companies may have knock-on effects for customers' energy bills in the future. The administrators appointed to oversee Bulb have access to nearly £1.7bn in the form of a government-backed working capital loan.[23] The Government has said that if there is a shortfall in the value of Bulb's estate to meet the Government's financing costs at the end of the special administration, it may recover the residual costs of the special administration from energy suppliers over a period of time at a later date. Ofgem has estimated that UK households will pay an extra £80 to £85 on their energy bills in 2022/23 as a result of the recent supplier collapses.[24] However, it said this estimate should be treated with caution, as it could go up or down depending on wholesale gas prices. Others have produced higher estimates. An analyst at the banking group Investec suggested that the cost of failed suppliers could top £3bn, adding an extra £120 to every household's energy bill.[25]

5. Impact on households

Millions of households were in 'fuel poverty' before the energy price rises of 2021. The Government measures fuel poverty using the low income low energy efficiency (LILEE) indicator.[26] This considers a household to be fuel poor if it is living in a property with an energy efficiency rating of band D or below and its disposable income after housing costs and energy needs would take it below a disposable income of less than 60% of the national median. Fuel poverty therefore depends on the interaction between energy efficiency, household income and energy prices. According to statistics from the Department for Business, Energy and Industrial Strategy (BEIS), an estimated 13.4% of households in England (3.18 million households) were in fuel poverty in England in 2019, down from 15% (3.52 million) in 2018.

Recent increases in energy prices could lead to an increase in the number of households in fuel poverty. BEIS projections published in April 2021 predicted the proportion and number of households in fuel poverty would fall to 12.5% (3 million) in 2021 under the LILEE metric.[27] However, these projections were modelled on household energy bills being lower in real terms in 2020/21 than in the two preceding years. BEIS projected that on average, a household's fuel costs would need to fall by £200 for it not to be in fuel poverty in 2021. National Energy Action, a charity committed to ending fuel poverty, estimated in October 2021 that annual energy bills could increase by £400 to £600 for the typical customer over the next year.[28] It feared that this could lead to over 1 million extra households in fuel poverty.

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[23] Department for Business, Energy and Industrial Strategy, 'Letter to Darren Jones MP, Chair, Business, Energy and Industrial Strategy Committee', 25 November 2021.

[24] Ben Chapman, 'Energy supplier collapses to cost £85 each, Ofgem warns', *Independent*, 3 December 2021.

[25] Emily Gosden, 'Households face £120 bill for failed energy groups', *Times* (£), 30 November 2021.

[26] Department for Business, Energy and Industrial Strategy, *Annual Fuel Poverty Statistics in England 2021 (2019 Data)*, 4 March 2021.

[27] Department for Business, Energy and Industrial Strategy, *Annual Fuel Poverty Statistics in England: 2019 Based Projections to 2021*, April 2021.

[28] BBC News, 'Up to 1.5m more could struggle to pay energy bills next year', 7 October 2021.

A £600 increase in energy bills is also predicted by the Resolution Foundation.[29] In analysis published in December 2021, it found that this would be most acutely felt by lower income households:

> £600 is a huge increase for households of all incomes, but will be felt most acutely by poorer families: households in the bottom income decile will see their energy spend rise from 8.5 to 12 per cent of their total household budget—three times the proportion for those in the top decile.[30]

It also stated that many of these lower income households would face even higher bills, noting that "around one-in-six (15 per cent) of households in the poorest two deciles have energy bills at least 25 per cent above the typical household, meaning they could see an increase of £750 or more in April thanks to having larger families, outdated boilers or poorly-insulated properties".

Overall, considering predicted energy price increases alongside a reduction in real wages and the planned increase in national insurance contributions, the Resolution Foundation feared a "living standards catastrophe" in 2022. It estimated that taxes and energy bills would rise by an average of £1,200 per household in April 2022 under current government plans.

In January 2022, the Resolution Foundation estimated that the predicted price cap rise in April "risks an overnight trebling of the number of households in 'fuel stress' (defined as spending more than 10 percent of their household income on energy)".[31] It calculated that fuel costs of £2,000 a year would mean 6.2 million English households struggling to pay their bills, an increase of more than 4 million on current levels. It argued that Government intervention was "unavoidable", and the optimum response would be both universal and progressive. The Resolution Foundation recommended the deployment of a range of policy measures:

> In the absence of action via the benefits system, the best way to ameliorate the impact of rising energy bills is a policy package expanding the warm homes discount; temporarily moving environmental levy costs to general taxation; and spreading the cost of supplier failure over three years.

The Resolution Foundation also argued that longer-term actions were needed to protect households from future 'fuel shocks', such as incentivising home insulation, renewable energy generation and a move away from gas boilers.

The charity Age UK estimates that around 1 million older households are in fuel poverty, representing 1 in 10 older households and 1.4 million older people.[32] Age UK warned in December 2021 that rising energy prices could push an estimated 150,000 extra older households into fuel poverty this winter.[33] It said it was "extremely concerned that rising energy prices and living costs will lead to some of the poorest pensioners rationing their heating this winter in order to afford higher

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[29] Resolution Foundation, *Labour Market Outlook Q4 2021*, 29 December 2021.

[30] ibid.

[31] Resolution Foundation, 'Higher and higher: Averting a looming energy bill crisis', 17 January 2022.

[32] Age UK, *The Cost of Cold*, December 2021.

[33] Age UK, 'Without more government financial help, fuel poor older households will top a million by the spring, new analysis shows', 21 December 2021.

energy bills". It added that the problem was exacerbated by the fact that many older people live in older, harder-to-heat homes. It also highlighted that older people find it harder than younger people to regulate their temperature, and cold could be particularly dangerous for those with pre-existing health conditions. Age UK called on the Government to:

- Provide a one-off £50 payment to all those eligible for cold weather payments and expedite existing payments so they arrive no later than seven days after a period of cold weather.
- Double the household support fund to £1bn to help safeguard all those on low incomes this winter.
- Take urgent action to get pension credit, which Age UK described as "a vital benefit and passport to a package of extra financial support", to all those who are eligible.
- Ensure the energy price cap is enshrined in law in the shorter term, and then move to re-introduce a social tariff into the energy market to offer protection against high energy costs in the medium term.

The former body Public Health England also linked cold weather and poorly heated homes with excess winter deaths.[34] It listed older people and those on lower incomes among those groups most at risk.

6. Consumer protection

Protecting the interests of consumers is intended to be at the heart of the energy regulatory regime. Ofgem's governing body is the Gas and Electricity Markets Authority (GEMA), also referred to as the Authority or the Ofgem board.[35] GEMA's principal objective is to protect the interests of existing and future consumers of gas and electricity.[36] It is required to carry out its functions in the manner it considers is best calculated to further this objective, wherever appropriate by promoting effective competition. In particular, it must have regard to the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.

Ofgem published a consumer vulnerability strategy in 2019, setting out actions it would take between 2020 and 2025 to help protect gas and electricity customers in vulnerable situations.[37] This includes a focus on five areas:[38]

- improving identification of vulnerability and smart use of data;
- supporting those struggling with their bills;
- driving significant improvements in customer service for vulnerable groups;
- encouraging positive and inclusive innovation; and
- working with partners to tackle issues that cut across multiple sectors.

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[34] Public Health England, 'Health matters: cold weather and Covid-19', 11 November 2020.
[35] Ofgem, 'Our structure and leadership', accessed 27 January 2022.
[36] Ofgem, 'Our powers and duties', accessed 27 January 2022.
[37] Ofgem, *Consumer Vulnerability Strategy 2025*, 25 October 2019.
[38] Ofgem, 'Consumer vulnerability protections', accessed 27 January 2022.

Ofgem published a consumer protection report in October 2021, presenting its assessment of how the energy market was working for vulnerable consumers.[39] The report noted the recent unprecedented increase in global gas prices, which it said had added increased financial pressures on suppliers. Ofgem said it stood ready to work with the Government, NGOs and the industry to find ways to mitigate some of the worst impacts of future price changes on customers, particularly vulnerable groups.

The report said the energy price cap would ensure that consumers, especially those in vulnerable circumstances, "don't pay more than is absolutely necessary this winter—making sure only legitimate costs to supply energy feed into the rates customers pay".[40] Ofgem acknowledged that the timing and size of the October 2021 increase to the price cap would be "particularly difficult for families still struggling with the impact of the pandemic".

Ofgem noted in the report that energy companies have a duty to support consumers in vulnerable situations through their licence obligations and other legal obligations such as the Equality Act 2010. The report highlighted areas of good practice where Ofgem said suppliers had "stepped up and supported their customers in unprecedented ways".[41] It welcomed work being undertaken by the trade body Energy UK and energy suppliers to follow up Energy UK's vulnerability commitment. This was introduced at the start of 2021, building on the work of the Commission for Customers in Vulnerable Circumstances, chaired by Lord Whitty.[42] Pledges in the vulnerability commitment cover:[43]

- accessibility, eg providing non-a freephone number for customers in financial hardship where appropriate;
- collaboration, eg referring customers to relevant third-party support, including debt advice agencies; and
- innovation, eg investing in features and tools that improve the support available to vulnerable customers).

Fourteen suppliers, covering around 70% of the market, signed up to the commitment, although two ceased business during 2021.[44] Twenty-six suppliers, covering around 90% of the market, signed up to a fresh set of commitments, drawn up by Ofgem and Energy UK, to cover this winter (up to March 2022).[45] These voluntary commitments were to raise awareness of support available to customers; ensure customers in financial difficulty can easily make contact; ensure bills are as accurate as they can be; and to take reasonable steps to ensure that prepayment meter customers are able to receive smart meters as soon as practicable.[46]

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[39] Ofgem, *Consumer Protection Report: Autumn 2021*, 21 October 2021.

[40] ibid.

[41] ibid.

[42] Energy UK, 'Energy UK launches vulnerability commitment', 1 December 2020; and Energy UK, 'The Commission for Customers in Vulnerable Circumstances', accessed 27 January 2022.

[43] Energy UK, *The Vulnerability Commitment*, 1 December 2020.

[44] Energy UK, 'Suppliers step up to help customers in need', 26 October 2021; and Energy UK, *Vulnerability Commitment: Best Practice Report 2021*, 26 October 2021.

[45] Energy UK, 'Energy sector offers helping hand', 29 July 2021.

[46] Energy UK, *Voluntary Winter Commitments to Support Domestic Customers*, 29 July 2021.

The Ofgem report also highlighted areas of poor practice where it said energy suppliers had fallen short of its expectations.[47] These included areas of customer service standards, proactive identification of customers who require additional support, and a small number of escalated debt recovery processes taking place too early. Ofgem said that where it felt suppliers had not made adequate efforts to meet their obligations, it would engage the compliance process and take action where appropriate. It said it had engaged with several suppliers throughout 2020 and 2021 where it had "concerns of potential consumer detriment".

Ofgem wrote to energy suppliers in October 2021 setting out how it intended to use its existing licence conditions to protect consumers' short- and long-term interests in the face of rising wholesale energy prices. Ofgem said it would consult on the price cap methodology to "ensure it appropriately reflects the costs, risks and uncertainties facing suppliers".[48] It restated its expectation that suppliers must continue to comply with their licence obligations, including providing support to the most vulnerable customers. It also said it would take "an enhanced approach to monitoring, compliance and enforcement of licence conditions to ensure suppliers pursue a sustainable business model".

However, Ofgem has faced criticism for not doing enough to protect consumers. Citizens Advice argued in a report published in December 2021 that "Ofgem failed to act against energy suppliers for nearly a decade, leaving the market vulnerable to this year's spike in wholesale prices".[49] It calculated that energy supplier failures had left consumers with a bill of £2.6bn (excluding the taxpayer money set aside for Bulb), and that this would cost the average household around £94. The report's key findings included:

> **Rules to ensure companies were fit to trade came too late**: From 2010 onwards, dozens of companies entered the market with limited checks. Some offered good service to consumers, but others were poorly prepared. Despite warnings from Citizens Advice and others, it was only in 2019 that Ofgem brought in new rules on market entry, and in 2021 to improve financial resilience—reforms that came far too slow to prevent the collapse we've seen.
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> **Ofgem's reforms failed to improve the resilience of suppliers**: Many recently failed suppliers were poorly capitalised and unable to withstand significant rises in gas prices. Some had business practices that left them in a precarious position, including:
>
> - Being insufficiently 'hedged' (hadn't bought enough energy in advance)
> - Offering fixed term deals that couldn't cover their costs
> - Amassing customers very rapidly, in some cases fuelled by auto-switching services.
>
> Some suppliers used customer credit balances as a cheap way to fund their growth, rather than use funds from lenders or investors […]
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> **Rules to protect customers weren't enforced:** Ofgem's regulatory failings also led to a

[47] Ofgem, *Consumer Protection Report: Autumn 2021*, 21 October 2021.
[48] Ofgem, 'Rising wholesale energy prices and implications for the regulatory framework', 29 October 2021.
[49] Citizens Advice, 'Catalogue of errors at Ofgem leaves consumers with multi-billion pound bill', 9 December 2021.

culture where companies were free to flout the rules.

- Only two in five compliance and enforcement cases in the last three years focused on consumer experience rules.
- The number of Ofgem staff working on enforcement fell by 25% between 2017/18 and 2020/21, despite record numbers of suppliers in the market.
- Only one in 20 of the suppliers that failed between August to mid-November 2021 had a 'living will' [customer continuity plan] in place, a new requirement from Ofgem that would have protected customers when suppliers failed.[50]

Citizens Advice argued that changes to how the market is regulated are "urgently needed".[51] It called for:

- An independent review of the causes of the market collapse, including Ofgem's approach to compliance and enforcement, and its reforms to ensure companies are fit to trade.
- A new "consumer duty", similar to one that is being introduced by the Financial Conduct Authority, making companies accountable for the outcomes their customers experience.
- Action by Government and Ofgem to protect consumers from unnecessarily steep increases to bills to pay for supplier failures.

Ofgem announced a package of new measures to boost financial resilience in the energy sector on 15 December 2021.[52] In its action plan on retail financial resilience, Ofgem said it would:[53]

- launch financial stress testing for suppliers from January 2022;
- require supplier boards to undertake self-assessments of their management control frameworks and provide assurance to Ofgem;
- strengthen existing controls on 'fit and proper' requirements;
- tighten rules around the protection of credit balances and renewables levies; and
- consult on new financial licence requirements in spring 2022.

Alongside the action plan, Ofgem published a 'call for input' seeking views from stakeholders on adapting the price cap methodology for volatile markets (this was in addition to earlier price cap consultation documents published in November 2021).[54] The call for input argued that "the price cap has delivered significant benefit to consumers and provides a degree of protection from […] price volatility" but "the current design could result in higher costs for consumers in the longer term unless it is amended to allow suppliers to better manage risk and costs". The call for input explored possible technical changes that could be made within the existing legislative framework: allowing emergency adjustments to the current price cap methodology, passing wholesale through to the price cap more

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[50] Citizens Advice, *Market Meltdown: How Regulatory Failures Landed Us with a Multi-billion pound bill*', 9 December 2021.

[51] Citizens Advice, 'Catalogue of errors at Ofgem leaves consumers with multi-billion pound bill', 9 December 2021.

[52] Ofgem, 'Raft of new measures to boost financial resilience in the energy sector', 15 December 2021.

[53] Ofgem, *Action Plan on Retail Financial Resilience*, 15 December 2021; and Ofgem, 'Building energy market resilience', 15 December 2021.

[54] Ofgem, 'Adapting the price cap methodology for resilience in financial markets', 15 December 2021; and Ofgem, 'Overview of 19 November 2021 price cap consultations', 19 November 2021.

quickly, or moving to a 'fixed mortgage' type approach that would better enable suppliers to manage volume risk.

Ofgem said that, if it went ahead with changing the price cap methodology, it would aim to have a new one in place by October 2022. As part of the measures announced on 15 December 2021, it also announced a statutory consultation on other interventions to address risks to consumers from market volatility that could be in place by April 2022 if needed.[55] These options are:

- requiring suppliers to make all new tariffs available to existing customers;
- allowing suppliers to charge exit fees on certain standard variable tariffs; and
- requiring suppliers to pay a market stabilisation charge when acquiring new customers.

As part of the December package, Ofgem launched a second statutory consultation, on strengthening milestone assessments and additional reporting requirements.[56] This sought views on whether to require suppliers to pause expansion until Ofgem is satisfied that they are financially resilient before they grow beyond certain milestones such as 50,000 and 200,000 customers.[57] Both the statutory consultations and the 'call for input' have now closed.

7. What is the Government doing?

The Government says it is taking a range of actions to support the households most affected by rising energy prices:

> The Government is committed to protecting customers, especially the most vulnerable. The energy price cap will continue to protect consumers, ensuring they pay a fair price for their energy this winter. Low income and fuel poor households will continue to be supported with their energy bills through the warm home discount, which provides eligible households with a £140 discount. Winter fuel payments and cold weather payments will also ensure that the most vulnerable are better able to heat their homes over the colder months.
>
> Additionally, the Government announced an extra £500m for local authorities through the new household support fund to help millions with their household bills.[58]

The warm home discount entitles eligible recipients to a one-off discount of £140 on their electricity bill between October 2021 and March 2022.[59] People can qualify if their supplier is part of the scheme and they either receive the guarantee element of pension credit (the core group), or they are on a low income and meet their energy supplier's criteria for the scheme (the broader group).[60] The

[55] Ofgem, 'Statutory consultation on potential short-term interventions to address risks to consumers from market volatility', 15 December 2021.

[56] Ofgem, 'Statutory consultation on strengthening milestone assessments and additional reporting requirements', 15 December 2021.

[57] Ofgem, 'Raft of new measures to boost financial resilience in the energy sector', 15 December 2021.

[58] House of Commons, 'Written Question: Energy: Prices', 20 December 2021, 93076.

[59] UK Government website, 'Warm home discount scheme', accessed 27 January 2022.

[60] UK Government website, 'Warm home discount scheme: Energy suppliers', accessed 27 January 2022.

scheme is funded by energy suppliers, who generally recoup the costs from customers' energy bills.[61] The Government sets a spending target each year, aiming to balance providing rebates to as many households as possible with minimising the impact on consumers' bills. The Government expects around 2.2 million households to receive rebates under the scheme in this financial year. The overall spending target is £354m. The Government ran a consultation in mid-2021 on raising the amount of the discount to £150 from 2022/23.[62] The Government said in mid-January 2022 that it would respond to the consultation soon.[63]

The winter fuel payment is available to people born before 26 September 1955 who lived in the UK for at least one day during the week of 20 to 26 September 2021.[64] It is paid out automatically to people who receive the state pension or certain other social security benefits; others may need to make a claim to receive the payment. It is worth between £100 and £300 depending on the age and living situation of the recipient.[65]

The cold weather payment is available to people who receive certain benefits or support for mortgage interest.[66] People can claim £25 for each seven-day period of very cold weather between 1 November 2021 and 31 March 2022. This is defined as when the average temperature in an area is recorded as, or forecast to be, 0° Celsius or below over seven consecutive days.

Under the household support fund, the Government is making £421m available to county councils and unitary authorities in England for the period 6 October 2021 to 31 March 2022.[67] Local authorities have discretion over exactly how to use the funding, but the Government says that it should be used "primarily to support households in the most need with food, energy and water bills". Half of the funding is ring-fenced for households with children. Government guidance to local authorities says the remainder can be used for other households in need of support, which can include households not currently in receipt of welfare benefits. Under the Barnett formula, the Scottish Government will receive £41m, the Welsh Government £25m and the Northern Ireland Executive £14m, bringing the total support to £500m.[68]

There has been recent speculation that the Government could introduce other measures in response to rising energy prices and their impact on household budgets, such as reducing VAT on energy bills, not going ahead as planned with a rise in national insurance contributions in April 2022, removing green levies or allowing energy companies to borrow money.[69] The Prime Minister and the Chancellor confirmed in a joint newspaper article on 29 January 2022 that they would continue with

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[61] House of Commons, 'Written Question: Energy supply: Warm home discount scheme', 28 October 2021, 65494.

[62] Department for Business, Energy and Industrial Strategy, *Warm Home Discount—Better Targeted Support from 2022*, June 2021.

[63] HL *Hansard*, 12 January 2022, col 1088.

[64] UK Government website, 'Winter fuel payment', accessed 27 January 2022.

[65] UK Government website, 'Winter fuel payment: How much you'll get', accessed 27 January 2022.

[66] UK Government website, 'Cold weather payment', accessed 27 January 2022.

[67] Department for Work and Pensions, 'Household support fund: Final guidance for county councils and unitary authorities in England', 11 November 2021.

[68] House of Commons, 'Written Question: Fuel Poverty', 13 December 2021.

[69] See for example Steven Swinford and Oliver Wright, 'Ministers plan council tax rebates to offset huge rises in energy bills', *Times* (£), 22 January 2022; and Peter Walker, 'Don't rule out national insurance U-turn amid Tory cost of living jitters', *Guardian*, 24 January 2022.

the introduction of the health and social care levy as planned.[70]

On the subject of regulating the energy retail market, Kwasi Kwarteng, Secretary of State for Business, Energy and Industrial Strategy, made a statement on 15 December 2021, the same day that Ofgem announced its package of financial resilience measures.[71] Mr Kwarteng said the Government planned to undertake a "refresh" of its Energy Retail Market Strategy for the 2020s, published in July 2021.[72] The Government aimed to publish an updated strategy "as soon as possible, once the market has stabilised".[73] Mr Kwarteng said the Government was inviting views on how the lessons learnt from recent market developments should inform future government policy. In particular, the Government sought view on achieving the best outcomes for customers, driving private investment to achieve net zero and how the retail market, its underpinning regulatory framework and the energy price cap, "may need to evolve to enable a lowest-cost, flexible and resilient energy system that continues to protect consumers". He also said the Government would publish a fairness and affordability call for evidence on the options for energy levies and obligations to help rebalance electricity and gas prices and to support green choices, with a view to taking decisions in 2022.

8. Read more

- House of Commons Library, *Rising Cost of Living in the UK*, 20 January 2022
- House of Commons Library, 'Cost of gas and electricity', 17 January 2022
- House of Commons Library, *The Energy Price Crunch*, 14 January 2022
- House of Commons Library, *Energy Bills and Tariff Caps*, 6 August 2021
- House of Commons Library, *Fuel Poverty*, 8 July 2021
- House of Commons Library, *Energy Policy*, 22 December 2021

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70 Boris Johnson and Rishi Sunak, 'We must stick to our recovery plan—tax will rise to pay for it', *Times* (£), 29 January 2022. The Health and Social Care Levy Act 2021 provides for a 1.25 percentage point increase in national insurance contributions in the 2022/23 tax year, and the introduction of a 1.25% health and social care levy on qualifying national insurance contributions from April 2023.

71 House of Commons, 'Written Statement: BEIS Update', 15 December 2021, HCWS497.

72 Department for Business, Energy and Industrial Strategy, *Energy Retail Market Strategy for the 2020s—Helping Consumers on their Net Zero Journey*, July 2021.

73 House of Commons, 'Written Statement: BEIS Update', 15 December 2021, HCWS497.

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