

**Pensions Client Directorate**

Energy Costs Support Scheme – Sharing data with energy suppliers to help them better target their social assistance schemes

Consultation on draft regulations and policy proposals

24 September 2009

**Contents**

- The Consultation ..... 3
  - Who this consultation is aimed at ..... 3
  - Subject of consultation ..... 3
  - Purpose of the consultation ..... 3
  - Scope of consultation ..... 3
  - Duration of the consultation ..... 3
  - How can you respond to this consultation? ..... 3
  - Queries about the content of this document ..... 4
  - Freedom of information ..... 4
  - The consultation criteria ..... 5
  - Feedback on this consultation ..... 6
  
- The Energy Costs Support Scheme ..... 7
  - Introduction ..... 7
  - Background ..... 8
  
- The Scheme ..... 9
  - Summary ..... 9
  - Whose data will be shared and what data will be shared ..... 9
  - How the scheme will work ..... 11
  - Amount of credit ..... 12
  - Who will qualify for a credit ..... 13
  - Qualifying date ..... 13
  - Opting out ..... 14
  - Dealing with customers whose details are not automatically matched ..... 15
  - Data protection and security issues ..... 15
  - Costs ..... 16
  - Timing ..... 16
  - Concluding summary ..... 17
  
- Next steps ..... 17
  
- Summary of consultation questions ..... 18
  
- Commentary on the Draft Regulations ..... 20
  
- List of those consulted ..... 21
  
- Annex A: Draft Regulations ..... 22

## **The Consultation**

### **Who this consultation is aimed at**

1. This consultation is directed at those who have an interest in how the Energy Costs Support Scheme operates and how individuals may be affected.

### **Subject of consultation**

2. This consultation is about the Government's proposals to share Pension Credit data with energy suppliers. The aim is to help energy suppliers better target their social assistance programmes on those pensioners most likely to be fuel poor.

### **Purpose of the consultation**

3. This consultation document seeks views on the enclosed draft regulations (see Annex A) and associated issues.

### **Scope of consultation**

4. This consultation applies to England, Wales and Scotland.

### **Duration of the consultation**

5. The consultation period begins on 24 September 2009 and runs until 23 October 2009.

### **How can you respond to this consultation?**

6. Please send your consultation responses preferably by email to:

Email: [fuel.poverty@dwp.gsi.gov.uk](mailto:fuel.poverty@dwp.gsi.gov.uk)

or alternatively by post to:

Jane Bonner-Morgan  
State Pensions Team 5  
Caxton House (5th floor)  
Tothill Street  
London SW1H 9NA

7. Please ensure your response reaches us by 23 October 2009.
8. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of a larger organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

### **Queries about the content of this document**

9. Any queries about the subject matter of this consultation should be made to:

Jane Bonner-Morgan  
State Pensions Team 5  
Caxton House (5<sup>th</sup> floor)  
Tothill Street  
London SW1H 9NA  
Phone: 020 7449 7158

10. This document is available at: <http://www.dwp.gov.uk/consultations/2009> It is available on request in alternative formats from the address above.
11. We have sent this consultation document to a large number of people and organisations who have already been involved in this work or who have expressed an interest (see list at page 21). Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

### **Freedom of information**

12. The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received, and referred to in the published consultation report.
13. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purpose of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.
14. To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Central Freedom of Information Team  
Adelphi  
1-11 John Adam Street  
London  
WC2N 6HT

[Freedom-of-information-request@dwp.gsi.gov.uk](mailto:Freedom-of-information-request@dwp.gsi.gov.uk)

15. The Central Freedom of Information team cannot advise on this particular consultation exercise, only on Freedom of Information issues. More information about the Freedom of Information Act can be found at <http://www.dwp.gov.uk/freedom-of-information>

## The consultation criteria

16. The consultation is being conducted in line with the Government Code of Practice on Consultation – [Government code of practice on consultation](#) (BIS website)

The seven consultation criteria are:

- **When to consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
- **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
- **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
- **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
- **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

## Feedback on this consultation

17. We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Name: Roger Pugh

Address: Department for Work and Pensions' Consultation Coordinator, 1<sup>st</sup> Floor, Crown House, 2, Ferensway, Hull HU2 8NF

Phone: 01482 609571

Fax: 01482 609658

Email: [roger.pugh@dwp.gsi.gov.uk](mailto:roger.pugh@dwp.gsi.gov.uk)

In particular, please tell us if you feel that the consultation does not satisfy these criteria. Please also make any suggestions as to how the process of consultation could be improved further.

18. If you have any requirements that we need to meet to enable you to comment, please let us know.
19. The responses to the consultation will be published by the end of November 2009 in a report on our consultation website that will summarise the responses and the action that we will take as a result of them.
20. The Code of Practice on Consultation recommends a minimum 12 week consultation period for public consultations, unless there are good reasons for a limited consultation period. In this case we have set a period of one month. This is because the timetable for introduction is very tight and the Government is very keen to get this measure in place quickly so that data can be shared from Spring 2010 and credits applied to peoples' fuel bills as soon as possible. We have been working closely with energy suppliers so they are aware of our plans and we have made sure that other key stakeholders such as those representing fuel customers and those likely to be fuel poor are aware of our plans too. We plan to hold a seminar to discuss the consultation document with stakeholders and of course, will continue to discuss our plans after the formal consultation period has closed. The Regulations will also be debated by Parliament.

## The Energy Costs Support Scheme

### Introduction

21. The Pensions Act 2008 Section 142 gives the Secretary of State power to make regulations regarding disclosing social security information on Pension Credit recipients to energy suppliers and vice versa. It prescribes that the Regulations must specify the purpose for which that information that is supplied, which must be in connection with enabling the provision of assistance to persons in receipt of State Pension Credit. In addition it gives the power to make regulations about offences for wrongful disclosure of information and the recovery of the cost of supplying and using shared information.
22. This consultation document seeks views on the draft Regulations and associated issues. The primary legislation gives the power to prescribe certain details in Regulations (as detailed above). These powers are concerned with the rules governing data disclosure rather than details of, for example, the amount of the award. Therefore issues such as these are not covered by the Regulations. It is important however that these details are set out clearly and accessibly and we therefore intend to publish a policy document to accompany the regulations. Together the Regulations and policy document should give a picture of how the scheme will work in practice and who will benefit.
23. The policy document will contain much of the material included as supporting detail in this consultation document. It will be drafted to take account of consultation responses. The policy document will be available alongside the draft Regulations when they are laid in Parliament ahead of Parliamentary debate and will be published with the final Regulations. Any change to the policy document that would alter the effect of the Regulations would not be permitted by law.
24. We continue to work closely with energy suppliers on the technical details of how the scheme will operate. For example, we will need to determine whether DWP data and energy suppliers' data is written in a common computer language and with a common format. Because this work is ongoing there are still some decisions yet to be taken on the technical details of the scheme. However the Government is keen to consult, in good time, on its proposals and this document is therefore written on our current understanding on the detail of the scheme but is subject to change.
25. The Energy Costs Support Scheme in 2010-11 will serve as a pilot for a proposed wider scheme in 2011. The Government's national strategy for climate and energy 'The UK Low Carbon Transition Plan' was published on 15 July 2009 and includes proposals, which are currently being developed, for social price support from 2011 onwards. We will undertake an evaluation of how the Energy Costs Support Scheme operates in practice, and the Government will then consider the part data sharing could play in these future wider fuel poverty plans.

## Background

26. The aim of the Government and the Devolved Administrations remains the eradication of fuel poverty as detailed in the “UK Fuel Poverty Strategy” published in November 2001. Separate targets exist in England and each of the Devolved Administrations with the overall aim being that by 2018 no household in the UK should live in fuel poverty.
27. A fuel poor household is one that cannot afford to keep adequately warm at a reasonable cost. The most widely accepted definition of a fuel poor household is one which needs to spend more than ten percent of its net income to heat its home to an adequate standard of warmth.
28. The Government agreed with energy suppliers last year an increase in their expenditure on social programmes. Under this agreement suppliers will increase the level of their social programmes to at least £150 million a year by 2010-11.
29. The Government wishes to build on the success of the voluntary agreement and is developing plans to put new arrangements in place when the current voluntary agreement ends in March 2011, as outlined in the Department of Energy and Climate Change’s White Paper ‘The UK Low Carbon Transition Plan’. As part of these new arrangements the Government is minded to increase the resources available and focus a large part of these resources on older poorer pensioner households who have the greatest risk from excess winter deaths and a have a high incidence of fuel poverty.
30. As a precursor to these new arrangements, the Government proposes to run in 2010 the Energy Costs Support Scheme, which focuses on sharing the data of a particular group of Pension Credit recipients. This will result in energy suppliers giving them an automatic credit of between £80 and £100. The level of the credit will be finalised in view of, amongst other things, other initiatives the suppliers will be running in the final year of the agreement to help vulnerable customers as part of their social programmes. We believe that setting up and operating this scheme will help us and energy suppliers to validate and refine systems. This will be extremely helpful in deciding whether data sharing in this form can play an effective part in arrangements from 2011.
31. The key challenge in fuel poverty measures has been identifying the fuel poor and targeting help towards them. In developing this scheme our focus is on older people who make up more than 50 percent of the fuel poor. We can use Departmental records to identify those in receipt of Pension Credit and use this as a proxy to identify the poorest pensioners.
32. The Department for Work and Pensions (DWP) and Department of Energy and Climate Change (DECC) are committed to exploring with energy suppliers more effective ways of targeting their social programmes on the people who need help most. We have been working together over the last couple of years on the details of how such a scheme might operate and we are very grateful for all the input we have received from suppliers already in working towards getting the Energy Costs Support Scheme up and running.
33. We recognise that the Energy Costs Support Scheme will be an important new step in the use of Government information as it legitimises, for the first time, the

supply of DWP information to multiple private commercial bodies. The Government recognises that it must put secure data handling and transferring processes in place prior to actual delivery.

34. We expect that the Regulations will be in place in the New Year, subject to Parliamentary approval, with data being shared from Spring 2010. We intend that this will be an important development in a long term approach to targeting and assisting the most vulnerable of energy consumers.
35. Careful consideration was given to whether sharing data was an appropriate approach to delivering assistance with fuel bills. We have looked at writing to people to invite them to make a claim for help or to issue vouchers which could be redeemed against fuel bills. However we know through prior experience from dealing with this group that there would be an unacceptably low level response to letters or redemption of non-secure vouchers. Effective data-sharing would be less susceptible to abuse, would be more cost-effective, and would carry fewer security risks than a voucher scheme.
36. The benefit of using data-sharing to help some of the most vulnerable people with their bills is that people will receive this help automatically without the need to claim. It removes the need to apply for help and thereby will deliver payments in the quickest and most customer friendly manner, with complete assurance around the security of data in that process.

## **The Scheme**

### **Summary**

37. The Government proposes that, under the Energy Costs Support Scheme, a group of Pension Credit recipients will receive a one-off credit worth between £80 and £100. To determine who will receive a credit, DWP name and address data for those who might qualify will be put forward for the data match. To ensure that the data share is proportionate, and that energy suppliers receive only the data they need, DWP's contracted data matching organisation will be responsible for undertaking the data matching exercise. That organisation will receive both DWP data and name and address data from energy suppliers. Where there is a match between the two sets of data energy suppliers will be notified and will automatically award a credit of between £80 and £100, to be credited to electricity accounts.

### **Whose data will be shared and what data will be shared**

38. As explained in the background section above the focus for the Energy Costs Support Scheme is those on Pension Credit. There are however over 2.7 million households in receipt of Pension Credit.
39. We have considered carefully who should be eligible for the scheme. It is important that this help should go to those who have greatest need, taking

account of their propensity to be fuel poor. We have therefore aimed to target those who we know are amongst the poorest Pension Credit recipients. In terms of the actual level of credit, we need to take into account, amongst other things, the funds energy suppliers might have available to spend on this scheme, in view of the significant commitments they will have already made as part of their social assistance programmes. In addition there is a need to ensure that the exercise results in a meaningful credit for customers. In view of the novel nature of sharing Government data with six commercial organisations, we have decided to begin this exercise on a modest scale.

40. The group whose data DWP will put forward is those in receipt of the guarantee credit element of Pension Credit only (i.e. this does not include those receiving the savings credit element) whether either or both the Pension Credit customer or their partner is aged 70 or over. People we know to be in care homes will not be included in this scheme as they are not responsible for paying individual fuel bills. We consider age and receipt of the different elements of Pension Credit (which are based on income) are the best way to help identify those with the highest propensity to fuel poverty. The draft Regulations refer to this group of people as “eligible individuals”. DWP will share name and address data of Pension Credit recipients, their partner and appointee if they have one, in case the energy bill is in the name of a partner or appointee. A partner is a spouse, civil partner or a person living with the Pension Credit customer as if they are married or civil partners.
41. The guarantee credit works by topping up the income of people aged 60 and over to their guarantee level (the standard minimum guarantee is £130 a week for single people and £198.45 for couples). It can be more for people with a severe disability, caring responsibilities or certain housing costs. The savings credit is designed specifically to reward pensioners aged 65 and over who have low or modest second pensions or savings. The savings credit is worth up to a maximum of £20.40 a week for a single person and £27.03 for couples. People can receive any combination of the elements of Pension Credit. The group receiving only guarantee credit represents the poorest pensioners on Pension Credit.
42. We estimate that once DWP data has been matched with that of energy suppliers around 250,000 households should receive a credit. The precise number will depend on the quality of the match achieved and the number in the target group already receiving a discounted or social tariff from their supplier.

**Question 1: The Government proposes a group of older, poorer pensioners should be helped by the scheme in 2010/11. We believe that targeting help on recipients of the guarantee credit alone, who are aged 70 or over, best meets our objective, while ensuring that the overall package of help is affordable within the funds set aside by energy suppliers for 2010/11.**

**We would be grateful for consultees’ views on whether they agree that resources should be targeted on this group of people.**

43. A definition of “eligible individual” is included in the draft Regulations (at regulation 4). Eligible individuals are those whose data DWP may share.
44. Regulation 5(2) lists the DWP information that may be shared. Regulation 6(1) details the information energy suppliers may share. In both cases this is limited to name and address.

**Question 2: The working title for this scheme is the Energy Costs Support Scheme.**

**We would be grateful for views from consultees as to whether they feel that the title sufficiently describes the proposed scheme and would be meaningful to its target group.**

## **How the scheme will work**

45. DWP will identify those who meet the Pension Credit receipt requirements and pass name and address information to DWPs contracted data-matching organisation contracted to carry out the match. For 2010-11 the data-matching organisation will be Electronic Data Systems (EDS), DWP’s recognised/authorised IT provider. EDS has significant experience of matching DWP and other Government Departments’ data. Energy suppliers will pass on the names and addresses of named customer account holders to that same body. EDS will match both sets of data and where the data matches, energy suppliers will receive back their own data with an indicator, i.e. a tick against those that qualify for a credit. No other personal or benefit information will be passed on. DWP will not see suppliers’ data, suppliers will not see DWP data, and suppliers will not see other suppliers’ data.
46. The credit will be awarded automatically by the energy supplier once they are notified that an individual’s data has matched. This is an essential part of the scheme. Sharing DWP data with another body is a serious responsibility and we need to ensure that the use of data is proportionate to the data sharing exercise. We want to ensure that all those whose data matches receive a worthwhile and automatic benefit. It would not therefore be appropriate for the data share to result only in the offer of help where people have to apply to receive that help.
47. After energy suppliers have delivered the credit we propose they may then use the information they have indicating Pension Credit receipt as a lead to offer energy efficiency measures, for example as part of their commitments under the Carbon Emissions Reduction Target (CERT). (Energy suppliers have to achieve at least 40 percent of the emissions reduction in a priority group of low-income households on qualifying benefits and elderly customers of age 70 and over, who are more likely to be in danger of falling into fuel poverty.) This will allow more help to get to those that need it most. Energy efficiency measures are an important part of the Government’s environmental and social policy, offering

carbon savings as well as a more sustainable means of reducing energy costs and increasing levels of thermal comfort for vulnerable households.

48. We are also considering whether suppliers should also be able to use the information to include people on their Priority Service Register. This would help the supplier identify vulnerable customers in a situation where disconnection was being considered.
49. Regulation 5(3) gives details of the purposes for which data shared by DWP can be used. Regulation 6(2) gives details of the purposes for which energy supplier information can be used.

**Question 3: We would be grateful for your views on whether the draft Regulations adequately cover the intended scheme.**

### **Amount of credit**

50. The credit will be between £80 and £100. The precise amount of the credit is still under review and will depend, amongst other things, on affordability in view of the other initiatives that the suppliers run as part of the voluntary agreement. The amount of the credit will be uniform across all suppliers. The credit will be paid to electricity accounts, thereby ensuring those without a mains gas connection are also able to receive this assistance with their bills.
51. Once suppliers are notified of a match they must deliver the credit to the electricity account. We expect this to appear as a credit on the household's statement and be accompanied by information from the supplier in terms of what the payment represents. All those who qualify will be credited with the same amount of between £80 and £100 regardless of how they pay their bills, whether their account is in credit or debit, or their electricity usage. Suppliers will credit bills as soon as is reasonably practicable after the datamatching and we will aim to specify a timeframe in which this should be done. Credits will appear on the customer's next bill. However, customers will become aware of the credit at different times, depending on their payment method. For example, customers who are billed quarterly may not see the credit until three months after it is awarded. Some direct debit customers may not become aware of the credit for up to six months.
52. Passing on the credit to pre-payment customers may be less straightforward. Suppliers and government are looking at whether separate arrangements need to be made to deliver the credit to this group. We will ensure pre-payment customers will not lose out.
53. Defining the amount of the credit is outside the scope of the Regulations and will be included in the policy document.

## Who will qualify for a credit

54. DWP will share data for those eligible according to Pension Credit receipt (as explained in paragraph 40). The Government's intention is that the credit should go only to people in this group who are responsible for their own electricity bill. However, it is likely that in some cases name data held by energy suppliers may not be the same as that held on DWP records and as result, in some cases there may not be a match between DWP's and energy suppliers' data. Eligible people could be excluded from an automatic match if, for example, their full name details had not been recorded by their energy supplier.
55. Before finalising these conditions for receipt the Government and energy suppliers will conduct tests to establish the level of precision that can be expected from a match with those responsible for their own electricity bill.
56. Customers who are already receiving a social or other discounted tariff for their electricity supply (i.e. one which scores under the voluntary agreement) will not be eligible for the electricity credit. They will already be benefiting from suppliers' social programmes. We are investigating whether it might be feasible for suppliers to exclude only those customers who receive a social tariff or discount worth at least as much as the credit.
57. We estimate that once DWP data has been matched with that of energy suppliers around 250,000 households will receive a credit. The precise number will depend on the quality of the match achieved and the number in the target group already receiving a discounted tariff.
58. A process will be established for dealing with enquiries from people who feel they qualify for the scheme but have not received a credit. This may happen where they meet the qualifying conditions but for some reason the data held by DWP and energy suppliers does not match. This issue is discussed further in paragraph 66.
59. Defining exactly who will qualify for a credit is outside the scope of the Regulations and this will be included in the policy document.

**Question 4: We would be grateful for your views on eligibility for the credit and how it will be delivered.**

## Qualifying date

60. In order to make a decision on who qualifies for the scheme we need to select a qualifying date on which we assess a customer's circumstances – such as their age, whether they are receiving the guarantee credit, and which energy company provides their electricity supply.
61. A single qualifying date for both suppliers and Government will give a snapshot of eligibility on a given date. It will be the simplest way of deciding eligibility for the scheme and the easiest to convey to customers. We recognise that some people may be disappointed because they miss the qualifying date. However, for the

scheme to work, a qualifying date is necessary to establish who is eligible. We do not propose to identify those whose award of Pension Credit is made after the data is collected or who are given a retrospective award that covers the qualifying date. This would entail significant cost and bureaucracy and mean that we were passing data to energy suppliers over a number of months. Energy suppliers are meeting the cost of the data sharing and matching exercise and it is right to balance best efforts to identify the most appropriate policy approach with the need to keep costs of the scheme proportionate.

62. Regulation 2 includes a definition of the qualifying date. The actual date will be decided before the draft Regulations are laid before parliament which is expected to be November 2009.

**Question 5: Government believes that a single qualifying date rule is the simplest way to determine eligibility for help, and will be easiest to explain to the target group. We would be grateful for consultees' views on our proposals about how to set the qualifying date.**

## Opting out

63. The powers in Section 142 of the Pensions Act 2008 give DWP a statutory gateway to share Pension Credit recipients' personal data with energy suppliers and vice versa. There is therefore no legal requirement for us to obtain customers' consent before sharing their data for the purposes of this scheme. In developing our proposals we have worked closely with the Information Commissioner's office to ensure they are content with this arrangement.
64. We recognise that some people may feel strongly that, even after the benefits of the scheme have been explained to them, they may still not want to participate in the scheme. But Government will exercise their best endeavours to respect the wishes of customers who specifically ask not to be included in the data matching exercise. Suppliers will do the same and are also considering their position on customers who have asked for their data not to be used for any purpose other than managing their account. This will include those who although they understand the benefits of the scheme do not wish to participate.
65. Arrangements for opting out will be set out in the policy document.

**Question 6: Government has taken statutory powers to allow a bulk data share to take place. There is no legal requirement to offer an opt out. We would like consultees' view on whether our offer to accommodate requests from individuals to opt-out is reasonable.**

## Dealing with customers whose details are not automatically matched

66. As set out in paragraph 58 because the quality of data, in particular name data, is likely to vary, we do not expect all DWP records to match with suppliers' records. Some customers who are eligible for the credit will not therefore receive it through the automatic data matching process. Suppliers will still look to provide the credit to eligible people who have not matched automatically. Government and energy suppliers are working closely to determine the best process for dealing with these customers.

**Question 7: We would be grateful for consultees' views on how any exceptions to the automatic process may be dealt with.**

## Data protection and security issues

67. The Government will ensure that sharing Government data under this scheme complies with existing safeguards and follows statutory and best practice guidance. The Regulations strengthen the legal safeguards of data shared by Government and energy suppliers by creating a new offence for anyone who unlawfully discloses data under this scheme.
68. Energy suppliers will also be required to have secure measures in place for handling and transferring data to the data-matching organisation.
69. DWP adheres to strict standards and codes that accord with the Cabinet Office requirements for data handling and Information Systems Security Standards. All administration of data sharing regardless of the parties involved is subject to these standards. Data transfers must accord to the Departmental Secure Data Transfer Strategy.
70. The Department takes its responsibility to care for the personal information provided by customers and staff very seriously. All requests for data sharing have to accord to the departmental data standards.
71. Data security covers both physical data and online system access. The Department has well-established procedures and a related supporting infrastructure to ensure that customer information is properly protected with various specialist and dedicated staff who have particular responsibilities for security including data protection.
72. These are further supported by policies, procedures and standards designed to provide a secure environment for customer and other information. The Department's policies are based on those issued by central government and are aligned with international security management standards.

73. We appreciate that some people may have concerns about data misuse and have therefore built in measures to ensure the strictest level of data security. We have involved the Information Commissioner in our proposals and we will continue to work closely with his office on the detail, to ensure that we comply with the highest standards of data handling, including its security.
74. The Regulations include a new criminal offence to penalise anyone who unlawfully discloses this data under this scheme. This is aimed at strengthening security of data handled and transferred and would cover the supply of information by DWP, its contractors and other members of staff as well as energy suppliers, their contractors and other members of staff.
75. The proposed offence and penalty regime is similar to that in place for the Digital Switchover Help Scheme where Government shares name and address details of benefit recipients with the BBC.
76. The proposed offence and penalty regime is set out in draft regulations 7 and 8.

**Question 8: We believe the regulations safeguard people's data but would be grateful if consultees would let us know if they think the offences do not cover all the issues.**

## Costs

77. The costs of setting up and running the data matching exercise will be met by energy suppliers. They will not be expected to cover DWP's administrative costs in running the project to deliver this initiative.
78. Government is keen to ensure that the assistance provided by energy suppliers to pensioners whose details are shared is proportionate and justifies Government's effort in sharing data. DWP and DECC are still in discussions with energy suppliers about details of the costs involved.
79. Section 142 of the Pensions Act 2008 allows the Secretary of State to provide in Regulations for the recovery of costs. We have decided however that it is more appropriate for these costs to be set out in the contracts between the energy suppliers will have with DWP and therefore they will not be covered in the Regulations.

## Timing

80. We expect the Regulations to come into force early in 2010 with data shared in the Spring of 2010. Suppliers will credit bills as soon as is reasonably practicable after the datamatching and we will aim to specify a timeframe in which this should be done.

**Question 9: We believe that in drafting these Regulations we have given due regard to equality (including disability, gender and race) in decision making any subsequent processes but please let us know if you believe there is any equality matter that we have overlooked or opportunities for promoting equality that we could exploit better.**

## Concluding summary

81. The Government proposes that, under the Energy Costs Support Scheme, a group of Pension Credit recipients aged 70 or over at a given qualifying date will receive a credit worth between £80 and £100 from energy suppliers. To determine who will receive a credit, certain DWP data will be shared with energy suppliers. To ensure that the data share is proportionate, and that energy suppliers receive only the data they need, DWP's contracted data matching organisation will be responsible for undertaking the data matching exercise. That organisation will receive both DWP data and name and address data from energy suppliers. Where there is a match between the two sets of data energy suppliers will be notified and will automatically award a credit of around between £80 and £100, to the eligible person's electricity account. No information about unmatched records will be passed to either party. DWP will not see supplier's data, suppliers will not see DWP data, and suppliers will not see other suppliers' data.

## Next steps

82. We will continue to work with energy suppliers on the technical issues involved, as well as other issues including the qualifying date and the rationale, how to handle any enquires from customers and what the uniform level of credit will be. We plan to publish a response to the Consultation Document in November and following that we will lay the draft Regulations in Parliament. The Regulations will then be debated in both Houses of Parliament. We want the Regulations to come into force early in 2010. Suppliers will credit bills as soon as is reasonably practicable after the datamatching and we will aim to specify a timeframe in which this should be done.

## Summary of consultation questions

### Question 1:

The Government proposes a group of older, poorer pensioners should be helped by the scheme in 2010/11. We believe that targeting help on recipients of the guarantee credit alone, who are aged 70 or over, best meets our objective, while ensuring that the overall package of help is affordable within the funds set aside by energy suppliers for 2010/11.

We would be grateful for consultees' views on whether they agree that resources should be targeted on this group of people.

### Question 2:

The working title for this scheme is the Energy Costs Support Scheme.

We would be grateful for views from consultees as to whether they feel that the title sufficiently describes the proposed scheme and would be meaningful to its target group.

### Question 3:

We would be grateful for your views on whether the draft Regulations adequately cover the intended scheme.

### Question 4:

We would be grateful for your views on the eligibility for the credit and how it will be delivered.

### Question 5:

The Government believes that a single date rule is the simplest way to determine eligibility for help, and will be the easiest to explain to the target group. We would be grateful for consultees' views on our proposals about how to set the qualifying date.

### Question 6:

Government has taken statutory powers to allow a bulk data share to take place. There is no legal requirement to offer an opt out. We would like consultees' views on whether our offer to accommodate requests from individuals to opt-out is reasonable.

### Question 7:

We would be grateful for consultees' views on how any exceptions to the automatic process may be dealt with.

**Question 8:**

We believe the Regulations safeguard people's data but would be grateful if consultees would let us know if they think that the offences do not cover all the issues.

**Question 9:**

We believe that in drafting these Regulations we have given due regard to equality (including disability, gender and race) in decision making any subsequent processes but please let us know if you believe there is any equality matter that we have overlooked or opportunities for promoting equality that we could exploit better.

## **Commentary on the Draft Regulations**

### **Regulation 1**

General provisions, setting out in particular the date the Regulations are to come into force.

### **Regulation 2**

The regulation contains definitions.

### **Regulation 3**

Regulation 3 defines an energy supplier. This is in line with the definition in the Carbon Emissions Reduction Order 2008 (SI 2008/188).

### **Regulation 4**

Regulation 4 describes who DWP is permitted to share information on under the scheme.

### **Regulation 5**

Regulation 5 lists the information that the Secretary of State or his service provider can disclose to energy suppliers or their service provider. It also describes the purposes for which information can be shared.

### **Regulations 6**

Regulation 6 lists the information that an energy supplier or its service provider can disclose to the Secretary of State or his service provider. It also describes the purpose for which information can be shared.

### **Regulations 7 and 8**

Regulations 7 and 8 list the situations where it is an offence to disclose information without lawful authority.

## List of those consulted

We have issued the consultation document to the following organisations:

Help the Aged / Age Concern England  
Consumer Focus  
National Energy Action  
Carers UK  
Citizens Advice  
Eaga  
Equality and Human Rights Commission  
Fuel Poverty Advisory Group  
Which  
National Right to Fuel Campaign  
Disability Alliance  
Royal National Institute for the Deaf (RNID)  
Royal National Institute for the Blind (RNIB)  
Sense  
Spinal Injuries Association  
Ofgem  
Local Government Association  
Confederation of British Industry  
Law Society  
Law Society of Scotland  
Office of Fair Trading

### Energy Suppliers

British Gas / Centrica  
EDF Energy  
E.ON UK  
RWE npower  
ScottishPower  
Scottish and Southern Energy  
Energy Retail Association (ERA)

### Government

Social Security Advisory Committee  
HM Treasury  
Ministry of Justice  
Welsh Assembly  
Scottish Parliament  
Northern Ireland Assembly  
Business, Innovation and Skills (Regulatory Impact Unit)  
Information Commissioner



and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

“domestic customer” means an owner or occupier of domestic premises in Great Britain who is supplied with electricity or gas at those premises wholly or mainly for domestic purposes;

“eligible individual” has the meaning given by regulation 4;

“energy costs support scheme” means a scheme known by that name established pursuant to arrangements made between the Secretary of State and certain energy suppliers for the provision of financial assistance towards energy costs incurred by domestic customers of those suppliers in receipt of state pension credit and to offer energy efficiency measures in the home of such customers<sup>(2)</sup>;

“energy costs support scheme function” means carrying out an activity for the purposes referred to in regulation 5(3) or 6(2);

“energy efficiency measures” means measures or schemes offered by energy suppliers which will improve the efficiency in the use of electricity, heat, gas or fuel in the homes of their domestic customers;

“energy supplier” has the meaning given by regulation 3;

“partner” means a member of a couple;

“qualifying date” for the purpose of disclosure by the Secretary of State is [day/month/year]

(2) References in regulations 5 to 8 to the Secretary of State are to be construed as including references to a person providing services to the Secretary of State.

(3) References in regulations 5 to 8 to an energy supplier are to be construed as including references to a person providing services to an energy supplier.

### Energy suppliers

**3.**—(1) An energy supplier is a person who holds a supply licence—

- (a) under section 6(1)(d) of the Electricity Act 1989<sup>(3)</sup> and that person satisfies paragraph (2) or (3) in respect of the supply of electricity; or
- (b) under section 7A of the Gas Act 1986<sup>(4)</sup> and that person satisfies paragraph (2) or (3) in respect of the supply of gas.

(2) A person must supply at least 50,000 domestic customers on 31st December 2009 or any anniversary of this date.

(3) A company that belongs to a group of companies must on 31st December 2009 or any anniversary of this date supply domestic customers and the number of domestic customers of that company and of other companies in the group must be at least 50,000.

(4) Where a person satisfies paragraph (1) in respect of electricity and of gas that person is a separate supplier in respect of each supply.

### Eligible individual

**4.**—(1) An eligible individual is a person (“P”) who satisfies the following conditions.

(2) The first condition is that on the qualifying date P or P’s partner is aged 70 years or over.

(3) The second condition is that on the qualifying date P or P’s partner is in receipt of state pension credit, by virtue of being entitled to guarantee credit under sections 1(3)(a) and 2 of the State Pension Credit Act 2002<sup>(5)</sup>.

---

(2) Published [date] A copy of the scheme can be obtained by writing to [insert name and address]. A copy also appears at [insert website]

(3) 1989 c.29

(4) 1986 c.44

(5) 2002 c.16.

(4) The third condition is that on the qualifying date neither P nor P's partner is entitled to savings credit under section 1(3)(b) and 3 of that Act.

### **Disclosure of information by the Secretary of State**

**5.**—(1) The Secretary of State may supply an energy supplier with the information referred to in paragraph (2) about an eligible individual for use by that supplier in connection with the purposes referred to in paragraph (3).

(2) The information is—

- (a) the name and any known alias of an eligible individual;
- (b) the address of an eligible individual;
- (c) the name and any known alias of the partner of an eligible individual;
- (d) the address of the partner of an eligible individual;
- (e) the name, any known alias and address of a person appointed to act on behalf of an eligible individual.

(3) The purposes are—

- (a) to identify persons who qualify or may qualify for an automatic award;
- (b) to establish a person's entitlement to an automatic award;
- (c) to provide persons with an automatic award;
- (d) to contact customers who have received an automatic award with a view to—
  - (i) offering energy efficiency measures;
  - (ii) delivering or helping to deliver energy efficiency measures.

### **Disclosure of customer information by energy suppliers**

**6.**—(1) An energy supplier may supply to the Secretary of State the names and addresses of its domestic electricity customers for use in connection with the following purposes.

(2) The purposes are to help the Secretary of State—

- (a) identify which of those customers qualify or may qualify for an automatic award;
- (b) to compile and provide to the supplier—
  - (i) a list of those customers who qualify or may qualify for an automatic award, and
  - (ii) the information about those customers referred to in regulation 5(2).

### **Offences**

**7.**—(1) A relevant person<sup>(6)</sup> must not disclose without lawful authority any information supplied to that person or another relevant person under these Regulations.

(2) A person—

- (a) who is or has been employed by a relevant person,
- (b) who is or who has been engaged—
  - (i) in the provision of services to a relevant person in connection with the carrying out of an energy costs support scheme function, or
  - (ii) to carry out any energy costs support scheme function, or to carry out any function in connection with the carrying out of an energy costs support scheme function, or
- (c) who is or who has been employed by, or who is or who has been engaged in the provision of services to, or to carry out a function for, a person mentioned in paragraph (b),

---

(6) for the meaning of "relevant person", see section 142(2) of the Pensions Act 2008 (c.30).

must not disclose without lawful authority information supplied to a relevant person under regulations 5 and 6.

(3) A person who contravenes paragraph (1) or (2) commits an offence.

(4) It is not an offence under this regulation—

- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information supplied under these Regulations relating to any particular person to be ascertained from it; or
- (b) to disclose information which has previously been disclosed to the public with lawful authority.

(5) It is a defence for a person (“A”) charged with an offence under this regulation to prove that at the time of the alleged offence A believed—

- (a) that A was making the disclosure in question with lawful authority, or
- (b) that the information in question has previously been disclosed to the public with lawful authority,

and that A had no reasonable cause to believe otherwise.

(6) For the purposes of this regulation, a disclosure is to be regarded as made with lawful authority only if it is made—

- (a) for the purpose of carrying out an energy costs support scheme function, or for doing anything connected with the carrying out of such a function;
- (b) in accordance with any enactment or court order;
- (c) for the purpose of instituting, or otherwise for the purposes of, proceedings before a court; or
- (d) for a purpose connected with the exercise of functions of the Lord Advocate or procurator fiscal;
- (e) with the consent of the person to whom the information relates or of any person authorised to act on that person’s behalf.

(7) A person guilty of an offence under this regulation is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both; or
- (b) on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both.

(8) In the application of this regulation in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003(7), the reference in paragraph (7) (b) to 12 months is to be read as a reference to 6 months.

(9) References in this regulation to enactments include references to Acts of the Scottish Parliament and an instrument under an Act of the Scottish Parliament.

### Liability of directors etc

8.—(1) If an offence under regulation 7 committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on that officer’s behalf,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, regulation 7 applies in relation to the acts and defaults of a member in connection with their functions of management as if that person were a director of the body.

(3) “Officer” in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

---

(7) 2003 c.44.

(4) Where an offence under regulation 7 is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a partner, the partner as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Signed by authority of the Secretary of State for Work and Pensions

*Angela Eagle*  
Minister of State  
Department for Work and Pensions

Date

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations deal with the sharing of data between the Secretary of State for Work and Pensions and certain energy suppliers for the purpose of providing certain state pension credit recipients who [on a particular date] are in receipt of guarantee credit (but not savings credit) so that those suppliers can identify which of those persons are its customers and are eligible for financial assistance towards their electricity bill in accordance with a support scheme established pursuant to arrangements made between the Secretary of State and those energy suppliers. The suppliers will use the information to provide the assistance (usually by means of a credit to the customers' electricity account) and then to contact those customers with a view to providing them with energy efficiency measures that will assist their household becoming more energy efficient.

Regulation 2 contains interpretation provisions. It specifies in particular that references to the Secretary of State in regulations 5 – 8 include references to a person providing services to the Secretary of State; and that references in regulations 5 - 8 to an energy supplier include references to a person providing services to that supplier.

Regulation 3 defines an energy supplier.

Regulation 4 sets out the conditions that individuals in receipt of state pension credit must meet before the Secretary of State is permitted to disclose the information about them (listed in regulation 5) to an energy supplier.

Regulation 5 permits the Secretary of State to disclose to energy suppliers certain types of social security information about those individuals for the purpose of identifying and assisting persons who qualify for financial assistance towards their electricity bill under the support scheme. Once it has been determined that individuals will receive an automatic credit to their electricity bill, the energy suppliers may use the disclosed information to contact those individuals to offer and deliver various energy efficiency measures that may assist in reducing their energy bill.

Regulations 6 allows an energy supplier to disclose the names and addresses of its domestic customers to the Secretary of State for the purpose of helping the Secretary of State (i) to identify and assist those individuals that qualify for financial assistance towards their energy bill and (ii) to provide each energy supplier with a list of its customers who qualify for an automatic financial award and the information referred to in regulation 5.

Regulations 7 and 8 create offences for improper use of information that has been disclosed, as well as setting out defences that may be available.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.