

Consultation on changes to Ofgem's REMIT Procedural Guidelines and REMIT Penalties Statement.

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Our REMIT Procedural Guidelines and REMIT Penalties Statement set out how we use our powers to enforce REMIT and how we determine penalties for REMIT breaches.

In 2021 Ofgem has been reviewing its approach to enforcement. In June, we consulted on changes to our Enforcement Guidelines and Sectoral Statement of Policy with respect to Financial Penalties and Consumer Redress.

In this consultation we are seeking views on revised versions of our REMIT Procedural Guidelines and REMIT Penalties Statement.

The revised versions of both documents reflect proposed changes in Ofgem's wider approach to enforcement, necessary amendments to reflect the fact that the United Kingdom has left the European Union, and revisions to make REMIT processes clearer and more efficient.

We are seeking views on the proposals set out in this consultation document from Regulated Persons under REMIT, and all other parties with an interest in our REMIT enforcement work. The responses will help us to ensure that our REMIT enforcement processes, and REMIT penalty policy, are relevant and adaptable in an innovative and evolving energy market.

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Executive summary

The Gas and Electricity Markets Authority (the Authority) regulates the gas and electricity markets in Great Britain.¹ The Office of Gas and Electricity Markets (Ofgem) carries out the Authority's day-to-day work and investigates matters on its behalf.

REMIT is Regulation (EU) no. 1227/2011 on wholesale energy market integrity and transparency, as incorporated into UK law by the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020 on 1 January 2021. REMIT imposes obligations and prohibitions on wholesale energy market participants regarding market conduct.

Under the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013, the Authority has the power to investigate a suspected breach of REMIT, and to take enforcement action where it finds that a breach has occurred. Enforcement action may include seeking an injunction, making a restitution order, or imposing a penalty.

Our REMIT Procedural Guidelines sets out how we use our powers under the Regulations 2013 to enforce REMIT. Our REMIT Penalties Statement discharges the Authority's obligation under the Regulations 2013, to publish a statement of its policy on the imposition of REMIT penalties and the determination of their amount.

In 2021 Ofgem has been reviewing its approach to enforcement. In June, we consulted on changes to our Enforcement Guidelines and Sectoral Statement of Policy with respect to Financial Penalties and Consumer Redress.

In this consultation we are seeking views on revised versions of our REMIT Procedural Guidelines and REMIT Penalties Statement. These documents were last updated in 2016 and 2015 respectively.

¹ The enforcement powers under the Electricity Act 1989 extend to Great Britain, a place in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone as defined at s.84(4) of the Energy Act 2004. Its powers under the Gas Act 1986 extend to Great Britain. The Northern Ireland Authority for Energy Regulation is responsible for the regulation of the gas and electricity industries in Northern Ireland.

The revised versions of both documents reflect proposed changes in Ofgem's wider approach to enforcement, necessary amendments to reflect the fact that the United Kingdom has left the European Union, and revisions to make REMIT processes clearer and more efficient.

The consultation is open until 28 September 2021. Responses should be sent to Lewis Hodgart at REMITconsultation@ofgem.gov.uk.

1. Introduction

- 1.1. REMIT is Regulation (EU) no. 1227/2011 on wholesale energy market integrity and transparency, as incorporated into UK law by the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020 on 1 January 2021.
 - 1.2. REMIT includes the following prohibitions and obligations on market participants:
 - a) Prohibition on market manipulation or attempted market manipulation
 - b) Prohibition on insider trading
 - c) Obligation to publicly disclose inside information in an effective and timely manner
 - d) Obligation on market participants trading GB wholesale energy products to register with Ofgem²
 - e) Obligation, to the extent required by Chapter II of the REMIT Implementing Regulation³, to report wholesale energy market transactions, including orders to trade to Ofgem⁴.
 - 1.3. Under the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013, the Authority has the power to investigate a suspected breach of REMIT, and to take enforcement action where it finds that a breach has occurred. Enforcement action may include seeking an injunction, making a restitution order, or imposing a penalty.
 - 1.4. Our REMIT Procedural Guidelines sets out how we use our powers under the Regulations 2013 to enforce REMIT. Our REMIT Penalties Statement discharges the Authority's obligation under the Regulations 2013, to publish a statement of its policy
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² In a direction published on 4 January 2021, Ofgem has determined that, until further notice, this requirement does not apply to MPs who are registered with the NRA for Northern Ireland, or the NRA of an EU Member State.

<https://www.ofgem.gov.uk/publications-and-updates/direction-exempting-market-participants-obligation-register-ofgem-under-remit>

³ as incorporated into UK law by the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020 on 1 January 2021

⁴ Chapter II of the REMIT Implementing Regulation (as amended) provides that the data reporting obligation shall commence in GB from the start date of any data reporting system established by Ofgem.

on the imposition of REMIT penalties and the determination of their amount. Our REMIT Procedural Guidelines were last updated in 2016. Our REMIT Penalties Statement was first published in 2015 and has not been updated since.

Ofgem's review of its enforcement procedures

- 1.5. In order to take account of changes to the energy market and to the enforcement landscape which have evolved since its Enforcement Guidelines and Sectoral Statement of Policy with respect to Financial Penalties and Consumer Redress were first introduced, in 2021 Ofgem has been conducting a comprehensive review of its wider approach to enforcement.
- 1.6. As part of the review, in June 2021 we consulted on proposed changes to our Enforcement Guidelines and Sectoral Statement of Policy with respect to Financial Penalties and Consumer Redress. Although neither of these documents apply to REMIT, a number of the proposed changes in the documents reflect proposed changes to Ofgem's enforcement procedures and penalty policies which do affect REMIT.
- 1.7. This consultation sets out the changes we propose to make to the REMIT Procedural Guidelines and to the REMIT Penalties Statement to ensure that both documents reflect the wider proposed changes in Ofgem's enforcement procedures.
- 1.8. As part of this process we have also carried out a review of REMIT specific enforcement policies and procedures. In this regard, the consultation also sets out a number of proposed changes aimed at making REMIT processes more efficient and clearer.
- 1.9. Any proposed changes that are adopted in the REMIT Procedural Guidelines will come into effect on the date on which we publish the final version of the document and will apply to all current and future investigations. The Authority will have regard to the updated version of the REMIT Penalties Statement in respect of any contravention which occurred on or after the date on which the updated REMIT Penalties Statement is published.
- 1.10. A summary of the main changes to both documents is set out below. Further details of all changes are provided in the sections which follow. We note that both documents also contain a number of necessary amendments to reflect the fact that the United Kingdom is no longer in the European Union. We are happy to receive feedback on these changes but due to their necessity we have not included specific consultation questions on them.

Summary of consultation content

Procedural Guidelines

- 1.11. Under the Procedural Guidelines, if an investigation is suitable for settlement, we currently have three settlement windows which provide an opportunity for persons to receive a discount to the penal element of the agreed settlement amount. These discounts are available on a sliding scale, depending on when settlement is agreed (early, middle, and late windows). In line with the approach set out in the consultation on changes to Ofgem's Enforcement Guidelines, we are consulting on a proposal to remove the middle and late settlement windows and retaining a 30% discount for settlement.
- 1.12. Currently, settlement decisions are always made by a Settlement Committee, which is usually made up of two members of the Enforcement Decision Panel (EDP) and one Ofgem Director.⁵ In line with the approach set out in the consultation on changes to Ofgem's Enforcement Guidelines, we are consulting on a proposal to change the decision-making process to allow the Director responsible for Enforcement to be a decision maker for settlement, where appropriate, as an alternative to a Settlement Committee, whilst retaining the option to use a Settlement Committee.
- 1.13. Our experience, and previous feedback from market participants, indicates that the explanation of the different governance procedures, their timing and how they interact with documents such as the Summary Statement of Issues Letter and Full Issues Letter could be clearer. To address this we are consulting on a number of changes throughout the document aimed at improving efficiency and clarity. These include:
- a) An overview of our governance procedures in Chapter One
 - b) Clarification of our criteria for opening an investigation, and an explanation of our Alternative Action process, in Chapter Four
 - c) An enhanced explanation of when we would normally publish a Summary Statement of Issues Letter in Chapter Five

⁵ [Enforcement Decision Panel | Ofgem.](#)

- d) An explanation of how our settlement process works, including the criteria we will use for deciding whether a case is suitable for settlement, in a revised and restructured Chapter Seven. This chapter replaces Chapter Ten in the current document
- e) An explanation of when we would normally publish a Full Issues Letter and of how our contest process works in a revised Chapter Eight

Penalties Statement

- 1.14. In line with the approach set out in the consultation on changes to Ofgem's Sectoral Penalty Statement, we have carried out a review of the factors the Authority may consider in determining the level of seriousness of a REMIT breach. To make the Penalties Statement more streamlined and easier to read, we propose to significantly reduce the number of factors listed.
- 1.15. To improve efficiency and clarity we are also consulting on the deletion of what is currently Chapter Three of the Penalties Statement, and the merging of what is currently Chapter Eight with Chapter Seven (becomes Chapter Six). In our view the content of Chapter Three is adequately covered in Chapter Four. Further, we do not think it is necessary to have separate chapters for financial penalties and restitution in relation to individuals for market abuse and non-market abuse cases.
- 1.16. In line with the approach set out in the consultation on changes to Ofgem's Sectoral Penalty Statement, we are also consulting on proposals only to calculate detriment and gain where it is proportionate, reasonable and practicable to quantify it. In addition, we are consulting on a proposal to use Financial Penalties 'Step One' (proposed Chapters Five and Six) only to calculate the financial gain to the person as a result of the breach, as opposed to the gain and detriment. If the person's gain can be attributed to other market participants' loss, we would seek a restitution order if proportionate, reasonable and practicable. Any wider market detriment (in addition to the person's gain), if it is proportionate, reasonable and practicable to quantify, would be taken account of in the assessment of seriousness.

2. Settlement window

Section summary

There are currently three settlement windows, with sliding discounts applied to the penalty amount that has been agreed in the settlement.

Consistent with the proposed changes to Ofgem's Enforcement Guidelines, we are consulting on removing the middle and late settlement windows and having one settlement window with a discount of 30%.

Questions

Question 1: What is your view on the proposal to remove the middle and late settlement windows, and associated settlement discounts?

Background

- 2.1. Under Regulation 10 of the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013, the Authority may open an investigation if it appears that there are circumstances suggesting that a person may have failed to comply with a REMIT requirement⁶. Following the opening of an investigation, if a case is deemed suitable for settlement, resolution may be reached through the settlement process, as set out in the REMIT Procedural Guidelines.
- 2.2. To settle a case, a Regulated Person under investigation must admit to the breach/es that has/have occurred. This will lead to a formal finding of a breach by the Authority. The person will also be expected to agree not to challenge or appeal any finding of breach, or the penalty and/or restitution order that is agreed as part of the settlement.
- 2.3. We currently have three settlement windows which provide an opportunity for persons to receive a discount to the penal element of the agreed settlement amount: early (30% discount), middle (20% discount) and late (10% discount)⁷. Since the REMIT

⁶ <https://www.legislation.gov.uk/uksi/2013/1389/regulation/10/made>

Procedural Guidelines were introduced in 2015 no party has settled in the middle or late windows.

- 2.4. The purpose of a settlement discount is to incentivise settling a case, recognising the benefits of resource savings, and sanctioning failures to comply with REMIT requirements earlier than would otherwise be the case. In our enforcement of sectoral cases, we have experienced increased amounts of time and resource being used to reach settlement, negating these benefits. While this has been less of a problem in REMIT enforcement to date, drawing on the sectoral experience, we see the potential that it could be, and fail to see practical benefits of a cumbersome multi-settlement window process.

Proposed Changes: Removal of the middle and late settlement windows

- 2.5. We are proposing to remove the middle and late settlement windows and the respective 20% and 10% discounts. This will mean we have one settlement window, as follows:

- 30 percent discount: This will usually be the only offer of discount available and settlement must be achieved within the settlement window in order for the person to benefit from it.
- The settlement window opens when the settlement mandate, including any relevant notice (decision or final) and press notice are provided to the person.
- The settlement window closes on expiry of a reasonable period (usually 28 days) which will be notified to the person when the above documents are provided. The settlement window may be reopened at the Authority's discretion in exceptional circumstances. However, if the settlement window is reopened there is no guarantee that a settlement discount will remain available.

- 2.6. If a person is willing to enter settlement, having only one settlement window should incentivise it to do so promptly, otherwise the benefit of a discounted penalty could be lost completely. This should result in findings of breach being made closer to the time they occurred, restitution, if appropriate, being made earlier, and swifter deterrence signals to the market. If a person is not willing to settle within the window, the case will likely move to contest, and ultimately be resolved more quickly than if a middle and late settlement window also applied.

3. Decision making in settlement cases

Section summary

Currently, a Settlement Committee made up of two Enforcement Decision Panel (EDP) members and one Ofgem Director makes settlement decisions.

We are proposing that the Director responsible for Enforcement can also be a decision maker for settlement, dependant on the circumstances of the case.

Questions

Question 2: What are your views on the option of allowing the Director responsible for Enforcement to be a decision maker in settlement cases?

Question 3: In your view, are there any other steps you think we could take to speed up the settlement process, without undermining the evidence - based nature of our decision making?

Background

- 3.1. Currently, the Authority has delegated certain enforcement decisions to the Enforcement Decision Panel (EDP), including settlement decisions. A Settlement Committee, made up of two members of the EDP and one Ofgem Director make decisions on settlement. The Settlement Committee is currently the only decision-making option for settlement of a case. The EDP was established in 2014 to take decisions in contested and settlement enforcement cases and to provide separation between the case team and the decision maker. There is no statutory obligation to have an EDP, nor specifically to use them on settlement cases.
- 3.2. In sectoral enforcement, as the energy market has evolved with an increase in the number of suppliers, Ofgem has had to address non-compliant behaviours and conduct issues across a broader range of businesses. This has increasingly been addressed

through use of Alternative Action,⁸ as this is generally a swifter means to address concerns and secure voluntary redress payments and/or compensation for consumers.

- 3.3. Unlike sectoral enforcement, the use of Alternative Action in REMIT can and has resulted in a finding of breach, therefore we are less concerned that using Alternative Action in REMIT weakens the deterrence message. Nevertheless, in common with sectoral enforcement, we are concerned about the amount of time it can take to conclude cases through settlement, and whether this approach is proportionate for all types of REMIT breaches.

Proposed changes

- 3.4. To provide for a more efficient means of concluding REMIT cases, we are proposing to introduce a process whereby the Director responsible for Enforcement can be a decision maker in settlement or delegate another Ofgem Director to act on their behalf. Where appropriate, this should speed up the process and reduce the resource burden on us and persons under investigation. It may also result in REMIT cases being resolved through settlement rather than Alternative Action, where previously Alternative Action may have been prioritised simply to conclude the matter more quickly.
- 3.5. We are proposing that for REMIT cases, an Ofgem Director will be able to:
- issue a settlement mandate; and
 - approve and issue the settlement penalty notice; and
 - approve final settlement decisions.
- 3.6. The option to use a Settlement Committee will remain.
- 3.7. We understand that parties under investigation may value the visible separation from the case team provided by a Settlement Committee. However, it is important to note that we have achieved successful outcomes through Alternative Action, where an Ofgem Director has been the decision maker. This shows that regulated parties have

⁸ Alternative action can be used in lieu of opening an investigation into a potential breach, as part of closing a formal investigation or during an investigation to address any ongoing concerns.

had confidence in, and been willing to engage with, this process. The option for a Settlement Committee remains for cases where it is considered the EDP's specialist expertise may bring benefit to the case.

- 3.8. Please note that the proposed changes apply only to cases that go through settlement and that the EDP will remain the decision maker in contested cases.

4. Changes to improve the efficiency and clarity of the REMIT Procedural Guidelines

Section summary

Our experience, and feedback from market participants, indicates that in some places the explanation of our governance procedures in respect of REMIT investigations could be clearer.

To address this we are consulting on a number of changes throughout the document aimed at improving efficiency and clarity.

Questions

Question 4: Do you have any comments on the proposed changes to improve the efficiency and clarity of the REMIT Procedural Guidelines?

Question 5: Are there any other changes that you think would improve the clarity of the REMIT Procedural Guidelines?

Background

4.1. Our REMIT Procedural Guidelines sets out how we use our powers under the Regulations 2013 to enforce REMIT. Our experience in conducting investigations using the guidelines, and feedback from market participants under investigation, has indicated that the explanation of the different governance procedures, their timing and how they interact with documents such as the Summary Statement of Issues Letter and Full Issues Letter could be clearer.

Proposed changes

- 4.2. To improve the efficiency and clarity of the processes described in our REMIT Procedural Guidelines we propose the following changes:
- a) Explanation in Chapter One of the role of the different decision making bodies within our governance structure. This includes the Director with responsibility for Enforcement, the Enforcement Oversight Board (EOB), the Settlement Committee, and the Enforcement Decision Panel (EDP).

- b) A revision and clarification in Chapter Four, of our criteria for opening an investigation, and an explanation of our Alternative Action process. Where appropriate, we propose to align our criteria for opening a REMIT investigation with that of the Enforcement Guidelines. Our Alternative Action process is not currently described in our Procedural Guidelines, but Alternative Action is something we have the discretion to use in REMIT and have used to good effect, so we consider that it is appropriate that this is explained in the Procedural Guidelines.
- c) An enhanced explanation in Chapter Five of when we would normally publish a Summary Statement of Issues Letter (SSIL) and what purpose the SSIL serves. The new text explains that we would normally send a SSIL following the information gathering and analysis phase of an investigation, providing we continue to consider that a breach of REMIT requirements has occurred. It also explains that we may send a Supplementary SSIL as a follow up to the SSIL.
- d) An explanation in a revised and restructured Chapter Seven of how our settlement process works. This includes a description of what settlement is, who makes settlement decisions and when, and how the settlement window discount works. Included within the changes is our proposal that for less complex or serious REMIT cases the Director with responsibility for Enforcement may make settlement decisions. We have also included a new section within this Chapter which explains how we decide whether a case is suitable for settlement. To make the process of seeking settlement more efficient we propose the flexibility to seek an indication in writing that the person under investigation is interested in settlement before taking this route. This chapter would replace what was Chapter Ten in the current document.
- e) An explanation in a revised Chapter Eight of when we would normally publish a Full Issues Letter (FIL), what purpose the FIL serves, and how it connects with our Contest procedure. There are no changes proposed to the Contest procedure itself.

5. Changes to improve the efficiency and clarity of the REMIT Penalties Statement

Section summary

In reviewing the REMIT Penalties Statement we have identified a number of places where it could be clearer and easier to read. These include the number of factors that the Authority may consider in determining the level of seriousness of a REMIT breach.

To address this we are consulting on a number of changes throughout the document aimed at improving efficiency and clarity.

Questions

Question 6: Do you have any comments on the proposed changes to improve the efficiency and clarity of the REMIT Penalties Statement?

Question 7: Are there any other changes that you think would improve the clarity of the REMIT Penalties Statement?

Background

5.1. Our REMIT Penalties Statement sets out our policy on the imposition of REMIT penalties and the determination of their amount as required under the Regulations 2013. The current and only version to date of the REMIT Penalties Statement was published in 2015. In reviewing the statement we have identified a number of places where it could be clearer and easier to read.

Proposed changes

5.2. To improve the efficiency and clarity of our REMIT Penalties Statement we propose the following changes:

Factors used to determine the seriousness of a REMIT breach

5.3. In line with the approach set out in the consultation on changes to Ofgem's Sectoral Penalty Statement, we have carried out a review of the factors the Authority may

consider in determining the level of seriousness of a REMIT breach, and therefore the level of financial penalty which should apply.

- 5.4. Although we do not propose to remove all of the factors in favour of a broader high level description of behaviours, as proposed Sectoral Statement of Policy with respect to Financial Penalties and Consumer Redress, as a result of this review, we propose to significantly reduce the number of factors listed, removing those which we consider overlap with others, or which are less likely to be applicable to REMIT. This approach is proposed for each of the sections under 'Step Two' of proposed Chapters Five and Six of the statement.
- 5.5. The effect of this proposal is to make the Penalties Statement more streamlined and easier to read. However, the proposed deletions should not be read as now disregarding previously listed negative behaviours. The list of factors retained should be read as indicative of the factors most likely to be considered, but not exhaustive. According to the circumstances of a given case the Authority may consider factors not listed in the REMIT Penalties Statement in determining the level of seriousness of a REMIT breach. To this end we include the caveat that the factors 'may include but are not limited to' at the head of each relevant section.

Calculation of Gain and Detriment

- 5.6. In line with the approach set out in the consultation on changes to Ofgem's Sectoral Penalty Statement, we are also consulting on proposals only to calculate detriment and gain where it is 'proportionate, reasonable and practicable to quantify it'. The reason for this is to make it clear that we can find that a person has breached REMIT requirements and impose a significant penalty even where it is not possible calculate gain or detriment. This could be the case where the Authority finds that an attempted breach of REMIT occurred, or where the materiality of a breach in financial terms is less than its wider negative affect. We also want to avoid the risk of resources being used inefficiently to derive overly complex or theoretical gain and detriment calculations.
- 5.7. In addition, we are consulting on a proposal to use 'Step One' in proposed Chapters Five and Six only to calculate the financial gain to the person as a result of the breach, as opposed to the gain and detriment. If the person's gain can be attributed to other market participants' loss, we would seek to compensate those market participants via a restitution order if proportionate, reasonable and practicable.

- 5.8. The reason for this is that we consider that the priority in 'Step One' should be to deprive a person of all the financial benefit derived from the breach, and to compensate affected parties, where this is proportionate, reasonable and practicable. We consider that any wider market detriment (in addition to the person's gain), if it is proportionate, reasonable and practicable to quantify, would be taken account of in the assessment of seriousness. In following this approach, we would retain the flexibility to ensure that any financial penalty, and compensation or other payment under a restitution order, or any combination of them, significantly exceeds, the gain to the regulated person and the detriment caused to other market participants, as stated in Chapter Two of the REMIT Penalties Statement.
- 5.9. The ability to take non-quantifiable gain and detriment into account already forms part of the assessment of seriousness in the current version of the REMIT Penalties Statement under such factors as whether the breach had 'an adverse effect on the gas and/or electricity wholesale markets'. To capture behaviours where only an attempted breach of REMIT occurred we propose to expand this factor to include 'whether the breach had, *or could have had*, an adverse effect' on the gas and/or electricity wholesale markets.

Reduction of duplication

- 5.10. To improve efficiency and clarity we are also consulting on the deletion of what is currently Chapter Three of the Penalties Statement, and the merging of Chapter Eight with Chapter Seven (becomes Chapter Six). In our view the content of Chapter Three is adequately covered in Chapter Four. Further, we do not think it is necessary to have separate chapters for financial penalties and restitution in relation to individuals for market abuse and non-market abuse cases.
- 5.11. To accommodate the merging of Chapter Eight with Chapter Seven (now proposed Chapter Six) we have included a separate text for market abuse and non-market abuse cases in the section which deals with 'determining the starting point for the penalty'. To the same end, in the same chapter we have added a factor specific to market abuse cases to the section which lists 'factors tending to show that the breach was deliberate'.

Other changes

- 5.12. In line with the approach set out in the consultation on changes to Ofgem’s Sectoral Penalty Statement, we have also introduced an explanation at the beginning of Chapter Three that, where a behaviour may be in breach of other conditions or requirements, in addition to REMIT, the Authority reserves the right to investigate and impose a penalty or make a restitution order in respect of that conduct in line with Ofgem’s sectoral Enforcement Guidelines, rather than investigate and impose a penalty under REMIT.
- 5.13. In line with the proposals only to calculate detriment and gain where it is ‘proportionate, reasonable and practicable to quantify it’ we propose a clarification in Paragraph 2.5, that ‘the Authority may impose a financial penalty even where the gain to the person, or the detriment caused to other market participants, cannot be reasonably calculated or estimated, or where it can be calculated and it is shown to be zero’. This could be the case where the Authority finds that an attempted breach of REMIT occurred, or where the materiality of a breach in financial terms is less than its wider negative affect.
- 5.14. Finally, in the chapter relating to ‘serious financial hardship in relation to individuals’ we propose an inflationary adjustment (rounded up to the nearest thousand) to the figures quoted as the starting point for this assessment. This was Paragraph 9.4, now Paragraph 7.4.

6. Next steps

List of consultation questions

- Question 1: What is your view on the proposal to remove the middle and late settlement windows, and associated settlement discounts?
- Question 2: What are your views on the option of allowing the Director responsible for Enforcement to be a decision maker in settlement cases?
- Question 3: In your view, are there any other steps you think we could take to speed up the settlement process, without undermining the evidence - based nature of our decision making?
- Question 4: Do you have any comments on the proposed changes to improve the efficiency and clarity of the REMIT Procedural Guidelines?
- Question 5: Are there any other changes that you think would improve the clarity of the REMIT Procedural Guidelines?
- Question 6: Do you have any comments on the proposed changes to improve the efficiency and clarity of the REMIT Penalties Statement?
- Question 7: Are there any other changes that you think would improve the clarity of the REMIT Penalties Statement?

Deadline for responses

- 6.1. Please send your responses to REMITconsultation@ofgem.gov.uk on or before 28 September 2021.
- 6.2. If you have any questions about the consultation, please contact us on the above email address.

Please see appendix 3 for privacy information.

The documents in appendix 1 may assist you with responding to this consultation.

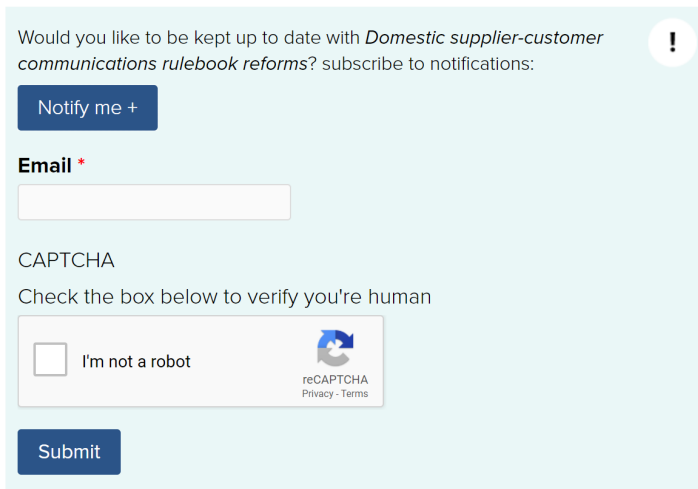
Consultation responses


- 6.3. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000, or the Environmental Information Regulations 2004. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality.
- 6.4. To the extent information provided in any response contains personal data, your rights are set out at Appendix 3. Please note that Ofgem intends to use information contained in responses in performance of its statutory functions, including those applicable to voluntary redress payments, and in accordance with section 105 of the Utilities Act 2000.

How to track the progress of the consultation

- 6.5. You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations).

Notifications




Would you like to be kept up to date with *Domestic supplier-customer communications rulebook reforms*? subscribe to notifications: 

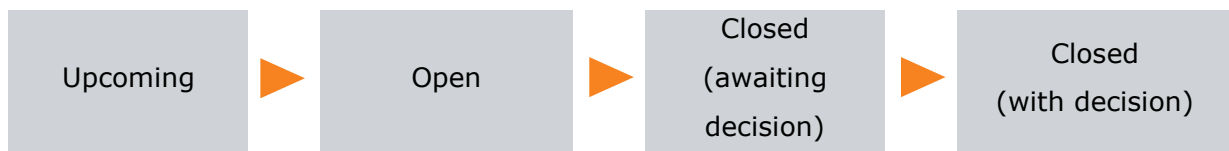
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- 6.6. Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:



Appendix 1- Related publications

The below documents may assist you with responding to this consultation.

Procedural Guidelines

- The current [Procedural Guidelines](#), updated in 2016.

Penalties Statement

- The current [REMIT Penalties Statement](#), published in 2015.

Appendix 2- General feedback

We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

Appendix 3 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, “Ofgem”). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

Your data will not be shared outside of Ofgem.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held in line with our processes.

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data

- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

9. More information For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".