

Guidance

Green Gas Levy Enforcement Guidelines and Statement in Respect of Penalties

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The Green Gas Support Scheme (GGSS) is a government environmental scheme that provides financial incentives for new anaerobic digestion biomethane plants to increase the proportion of green gas in the gas grid.

The Gas and Electricity Markets Authority (the Authority) regulates the gas and electricity markets in Great Britain and is required by the Green Gas Support Scheme Regulations 2021 (GGSS Regulations)¹ to administer the GGSS and the associated Green Gas Levy (GGL). The Office of Gas and Electricity Markets (Ofgem) is the administrator of the GGSS and the GGL on behalf of the Authority. The GGL funds the GGSS by placing obligations on all licensed fossil fuel gas suppliers in Great Britain to pay a levy. Ofgem will administer the GGL in line with the GGSS Regulations, which came into force on 30 November 2021.

As part of Ofgem's duty to regulate the way in which businesses in the energy sector behave, it is important that we can act swiftly and decisively to put things right if businesses fail to meet their obligations, including where they demonstrate poor behaviours or conduct. By doing so,

¹ https://www.legislation.gov.uk/ukdsi/2021/9780348227284/pdfs/ukdsi_9780348227284_en.pdf

Ofgem can send strong deterrent messages to all the relevant businesses operating in the energy sector.

These guidelines will be kept under review and updated in the light of further experience and developing law and practice. Ofgem intends to produce and consult on updated guidelines and an updated statement in respect of financial penalties in due course. Comments in respect of these guidelines can be made by emailing gglenforcement@ofgem.gov.uk. Received comments will be collated and considered when Ofgem produce an updated set of guidelines and an updated statement in respect of financial penalties, unless Ofgem considers it is appropriate to do so earlier.

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1. Introduction

- 1.1. The GGSS opened to applicants in England, Scotland and Wales on 30 November 2021, and will remain open for applications for four years, until 30 November 2025. Registered participants will receive quarterly payments on eligible biomethane injected into the grid, for up to 15 years, if they continue to meet their ongoing obligations. Ofgem have published separate guidance documents² regarding its procedures for administering the GGSS and GGL.
- 1.2. The GGSS is funded through the GGL, which places an obligation on all licensed gas suppliers in Great Britain, excluding those who supply at least 95% certified green gas, to pay a quarterly levy based on the number of meter points they serve. Obligated suppliers are required to submit quarterly meter point data and must also lodge credit cover in the form of cash credit cover and/or an acceptable letter of credit to help ensure funds are collected in a timely manner and to reduce the likelihood of mutualisation events being required.
- 1.3. As administrator of the GGSS, Ofgem has the power to take enforcement action in respect of an obligated supplier's failure to comply with their obligations under the GGSS Regulations.
- 1.4. These guidelines outline the enforcement powers that Ofgem may use in response to a supplier's non-compliance with the GGSS Regulations and provide information on the processes and procedures Ofgem will generally apply when taking enforcement action under the GGSS Regulations.

Vision for our enforcement work

1.5. Our strategic enforcement objectives are to:

- Deliver credible deterrence to non-compliance across the range of our functions,
- ensure visible and meaningful consequences for businesses who do not comply, and
- achieve the greatest positive impact by prioritising enforcement resources and using the full range of our powers and regulatory "toolkit".

1.6. We aim to achieve these objectives by:

² See separate GGSS and GGL guidance documents in the [guidance and resources section of our website](#)

- Identifying poor conduct or behaviour early and taking action in a timely manner,
- using appropriate enforcement processes,
- being fair and transparent throughout the enforcement process and visible in the actions that we take, and
- learning from everything we do, including sharing lessons learned across Ofgem and from across the energy industry.

1.7. This guidance describes the enforcement powers that the Authority has under the GGSS Regulations and how it may use those powers in situations relating to contraventions of the GGSS Regulations.

Status of these guidelines

1.8. The GGSS Regulations place a duty on Ofgem to publish procedural guidance to Scheme Suppliers³ in connection with the administration of the Scheme⁴. Procedural guidance on the administration of the scheme has been published⁵.

1.9. Separately, we have developed these enforcement guidelines and a Statement in Respect of Penalties (see Annex 1), which were introduced on 13 April 2022 and apply to all current and future enforcement action which may be taken or being considered in respect of non-compliance with the GGSS Regulations. However, if the circumstances of a particular case justify it or our strategic enforcement objectives are better met by adopting a different approach, we may depart from the general approach to enforcement set out in these guidelines.

1.10. These guidelines are not a substitute for any regulation or law and should not be taken as legal advice. Obligated suppliers should consider seeking independent legal advice to ensure they comply with their obligations under the GGSS Regulations.

³ A scheme supplier is a licensed gas supplier who is a fossil fuel supplier, regulation 38 of the GGSS Regulations.

⁴ Regulation 63 of the GGSS Regulations.

⁵ <https://www.ofgem.gov.uk/publications/green-gas-support-scheme-guidance>

2. Our enforcement powers

2.1. We have powers under the GGSS Regulations to support us in our enforcement work. A summary of our key enforcement powers is set out below.

2.2. We also have the power draw down credit cover where a Scheme Supplier fails to pay a quarterly levy payment in accordance with regulation 40 of the GGSS Regulations or a mutualisation payment in accordance with regulation 56 of the GGSS Regulations, or where a former Scheme Supplier fails to pay the whole or any part of an outstanding amount in accordance with regulation 51(8) of the GGSS Regulations. Details of the process in respect of drawing down credit cover are set out in section 6 (compliance) of the separate guidance published in respect of administering the GGL⁶.

Power to obtain information

2.3. The GGSS Regulations provide the Authority with powers to obtain information from a Scheme Supplier to discharge its functions under, or monitor compliance with, the GGSS Regulations⁷. Information requested must be provided within the timeframe specified by the Authority.

Power to issue an Anticipated Default Notice

2.4. We may serve an Anticipated Default Notice⁸ where we reasonably believe that it is likely that a Scheme Supplier⁹ will fail to pay:

- a) a quarterly levy payment in accordance with regulation 40 of the GGSS Regulations,
- b) a levy credit payment in accordance with regulation 42 of the GGSS Regulations,
- c) any credit cover required in accordance with regulation 42(3)(b) or (c) of the GGSS Regulations,

⁶ See the GGL Guidance here - [Green Gas Levy guidance Version 1 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/green-gas-levy-guidance-version-1)

⁷ Regulation 47 of the GGSS Regulations

⁸ Regulation 52 of the GGSS Regulations

⁹ Under regulation 38(1) of the GGSS Regulations a scheme supplier is a licensed gas supplier who is a fossil fuel supplier.

- d) a backdated levy payment in accordance with regulation 49 of the GGSS Regulations, or
- e) a mutualisation payment in accordance with regulation 56 of the GGSS Regulations.

2.5. An Anticipated Default Notice will specify the amount due for payment, including any interest that has been applied, and the date on which payment of the relevant amount is due. The Anticipated Default Notice will also include certain other information including the grounds on which the Authority reasonably believes the scheme supplier is likely to fail to pay the amount due and details of any right of appeal under regulation 60 of the GGSS Regulations¹⁰. Further details of a scheme supplier's right of appeal are set out at Section 6 below.

Power to issue an Enforcement Notice

2.6. We may serve an Enforcement Notice¹¹ on a Scheme Supplier where we are satisfied that the Scheme Supplier has failed to pay:

- a) a quarterly levy payment in accordance with regulation 40 of the GGSS Regulations,
- b) a levy credit payment in accordance with regulation 42 of the GGSS Regulations,
- c) any additional credit cover,
- d) a backdated levy payment in accordance with regulation 49 of the GGSS Regulations,
- e) a mutualisation payment in accordance with regulation 56 of the GGSS Regulations, or
- f) interest on a payment referred to in paragraphs (a), (d) or (e) above due in accordance with regulation 54 of the GGSS Regulations¹².

¹⁰ Regulation 52(2) of the GGSS Regulations.

¹¹ Regulation 53 of the GGSS Regulations

¹² Regulation 53(1) of the GGSS Regulations.

- 2.7. In circumstances where the Enforcement Notice is issued for failure to make any of the payments described at paragraph 2.6 above, the notice will specify the amount outstanding and the date by which the scheme supplier must pay the amount due or, where applicable, the date by which an acceptable letter of credit must be provided. Where a notice is served for a breach of any other obligations it will set out the regulation(s) which the Authority believes has been breached, the matters constituting the breach, the steps the scheme supplier must take to remedy the breach, and the date by which those steps must be taken.
- 2.8. An Enforcement Notice will also set out details of a scheme supplier's right of appeal under regulation 60 of the GGSS Regulations (see further details at Section 6 below).
- 2.9. A Scheme Supplier upon whom an Enforcement Notice has been served must comply with the requirements of the notice. The Authority can enforce an Enforcement Notice by civil proceedings¹³.

Power to issue a Penalty Notice

- 2.10. We have the power under the GGSS Regulations to impose financial penalties in certain circumstances¹⁴.
- 2.11. We may serve a Penalty Notice on a Scheme Supplier if we are satisfied that the Scheme Supplier knowingly provided false or misleading information or failed to comply with any other obligation imposed on it under the GGSS Regulations after following certain procedural requirements¹⁵.
- 2.12. A Penalty Notice may impose a financial penalty on the Scheme Supplier of such amount as the Authority deems reasonable in all the circumstances of the case, provided that the amount does not exceed 10% of the Scheme Supplier's relevant turnover¹⁶. In deciding whether to impose a penalty and in determining its amount, the Authority will have regard to the Authority's Statement in Respect of Penalties (Annex 1).

¹³ Regulation 53(7) of the GGSS Regulations.

¹⁴ Regulation 57 of the GGSS Regulations.

¹⁵ GGSS Regulations, Regulation 57

¹⁶ Relevant turnover is defined in regulation 57(9) of the GGSS Regulations.

Power to recover debts as a Civil Debt

2.13. We have the power under the GGSS Regulations¹⁷ to recover unpaid amounts as civil debts if not paid by the due date including:

- a quarterly levy payment,
- a levy credit payment,
- a payment of additional credit cover,
- a backdated levy payment,
- a mutualisation payment,
- a financial penalty, and
- any interest due in accordance with regulation 54.

3. Decisions to take enforcement action

3.1. This section describes the processes and procedures Ofgem will generally apply when taking enforcement action under the GGSS Regulations.

3.2. We describe the sources of information we most frequently rely on, and how we will handle that information. We set out the factors that we will consider in helping us determine whether to take enforcement action.

Sources of information

3.3. The following section describes the sources of information, on which we most frequently rely, to assess whether to take enforcement action in response to a potential contravention or failure. This list is not intended to be exhaustive and there may be other sources of information on which we rely.

Non-compliance with obligations

3.4. We will monitor the compliance of a Scheme Supplier with their obligations under the GGSS Regulations. If a supplier does not meet their obligations, or we believe it is likely that a Scheme Supplier may not meet their obligations, we may decide to take enforcement action, if we believe it is appropriate to do so.

¹⁷ Regulation 58 of the GGSS Regulations

Self-reporting of failures or potential failures

3.5. We strongly encourage Scheme Suppliers to promptly self-report any failures to comply with the GGSS Regulations. Doing so will allow Ofgem to determine appropriate steps to rectify the matter quickly and effectively. If failures emerge because of prompt, proactive, accurate and comprehensive self-reporting, Ofgem will take that into account when deciding whether to take enforcement action. If we decide that enforcement action is required, self-reporting may also be reflected in the level of financial penalty.

Own initiative engagement

3.6. Our ongoing work with Scheme Suppliers may also reveal issues or concerns which need to be considered further. This could include, for example, evidence indicating that the Scheme Supplier may not be able to meet its obligations under the GGSS Regulations. Should any issues or concerns arise we may decide to take enforcement action.

Whistleblowing

3.7. Whistleblowing is when a person or company raises a concern about a wrongdoing, risk or malpractice that they are aware of through their work. It is also sometimes described as making a disclosure in the public interest. Disclosures made to “blow the whistle” about concerns regarding potential breaches of relevant regulations or legislation may lead to enforcement and/or compliance action.

Initial inquiry phase

3.8. Before a decision is taken to take enforcement action, we may seek further information or clarification from the relevant Scheme Supplier. Prompt responses may speed up resolution of the issue under consideration and may increase the likelihood that enforcement action won't be taken.

Prioritisation criteria for deciding whether to investigate a potential contravention or failure.

3.9. In this section we set out the factors we will normally consider when deciding whether to investigate (or keep investigating) a potential contravention or failure. These details are non-exhaustive; each issue for which potential enforcement action is being discussed will be

considered on its merits taking account of relevant evidence, legal context and resource considerations.

3.10. When making our assessment we will consider the following three criteria:

(1) Do we have the power to act and are we best placed to act?

(2) Is it a priority matter for us due to the apparent seriousness of the potential contravention or failure?

(3) Is it a priority matter for us due to the apparent poor conduct of the Scheme Supplier?

3.11. Provided that criterion (1) is fulfilled we may decide to open a case if only one of the other criteria apply (both need not apply).

Do we have the power to take enforcement action and are we best placed to act?

3.12. This means considering whether the alleged contravention or failure falls within the scope of the GGSS Regulations and is a matter for which Ofgem could take enforcement action.

Is it a priority matter for us due to the apparent seriousness of the contravention or failure?

3.13. This means assessing a range of factors including the degree to which the suspected contravention or failure is causing or is likely to cause harm to the integrity of the GGSS.

3.14. We will also assess whether the suspected contravention or failure is causing or is likely to cause harm (directly or indirectly) to other market participants. We will assess both financial and non-financial aspects of harm and consider whether the Scheme Supplier may have benefited financially or otherwise.

3.15. We will also take account of the extent to which the suspected contravention or failure could harm our ability to regulate effectively and the need to deter poor practice by the Scheme Supplier in question or by others across the market.

Is it a priority matter for us due to the apparent poor conduct of the Scheme Supplier in question?

3.16. This means assessing a range of factors including whether the Scheme Supplier is willing and able to comply with its obligations or whether it has recurring poor behaviours or conduct.

3.17. Our assessment will include whether the alleged breach appears to be intentional, a sign of negligence or constitutes a failure to comply with previous undertakings. In considering the Scheme Supplier's record, we will include any history of similar breaches, including any that in isolation may not have been considered serious enough at the time to justify opening a new case.

3.18. Also, we will consider whether the Scheme Supplier self-reported promptly, accurately and comprehensively, and whether it is taking timely action (or has already acted) to put matters right. We are more likely to open an investigation if the alleged contravention or failure is ongoing but can take action if the company is no longer in breach. We are more likely to open an investigation where the Scheme Supplier has not co-operated fully with our enquiries.

Decisions on whether to investigate

3.19. Decisions on investigations will normally be made by a senior civil servant with responsibility for enforcement matters. Such decisions may follow a discussion by Ofgem's Enforcement Oversight Board (EOB). The members of the EOB are usually senior civil servants from across Ofgem. It is chaired by a senior civil servant with responsibility for enforcement.

3.20. The EOB provides strategic oversight and governance for all our enforcement work and oversees the portfolio of cases.

4. Conducting investigations

4.1. This section sets out the general procedures we will follow once we have decided to investigate a potential contravention or failure. It explains how we will notify the relevant Scheme Supplier, maintain contact and gather information.

Notification that we are opening an investigation

4.2. When we decide to investigate, we will normally inform the Scheme Supplier. We may not, for example, where we consider that alerting the Scheme Supplier may prejudice or hamper the investigation. In these cases, we will notify the Scheme Supplier if and when it is appropriate to do so.

- 4.3. When notifying the Scheme Supplier, we will provide an outline of the alleged contravention or failure and the scope of the investigation. The scope of the case may widen if we become aware of other matters requiring investigation.
- 4.4. When we investigate a matter, we will normally provide a Scheme Supplier with contact details of Ofgem person who will be the main point of contact for the investigation.
- 4.5. We may publish our decision to investigate a breach of the GGSS Regulations on our website. Any such decision to publish will be made on a case- by-case basis. Where we do publish a case opening on our website, we will make clear that this does not suggest we have already reached findings about non-compliance.
- 4.6. The Authority is obligated to publish a default register¹⁸. Where a scheme supplier fails to pay a quarterly levy payment, a levy credit payment, a payment of additional credit cover, or a mutualisation payment by the date on which that payment is due, the Authority must publish information in relation to that Scheme Supplier in the default register as soon as reasonably practicable¹⁹.

Information Gathering

- 4.7. We may use our powers under the GGSS Regulations²⁰ to collect the information and evidence we need to carry out our investigatory work. During an investigation we may therefore issue one or more requests for information to obtain the evidence we need.

Investigation timescales

- 4.8. We aim to investigate matters as quickly as possible. A provisional timeline will normally be shared at the outset of a new enforcement investigation; it will be set on a case-by-case basis. The timeline may be updated as the case progresses.

Service of documents and notices

- 4.9. Where any document or notice is required or authorised to be served on a Scheme Supplier under the GGSS Regulations, we will normally serve it electronically (by email).

¹⁸ Regulation 59 of the GGSS Regulations

¹⁹ <https://www.ofgem.gov.uk/publications/green-gas-levy-guidance>, section 6.

²⁰ Regulation 47 of the GGSS Regulations

5. Serving Notices

- 5.1. This section describes how and when we may use our enforcement powers including serving an Anticipatory Default Notice, Enforcement Notice, Penalty Notice or take steps to recover any unpaid sums as a civil debt. We describe the circumstances in which we may take any such action and provide information about how decisions to take such action are made.
- 5.2. We will determine which of our enforcement powers is the most appropriate course of action to use depending on the facts and circumstances of the case.
- 5.3. Before serving a notice, we will inform the Scheme Supplier, in such form and manner as we consider appropriate, having regard to the facts and circumstances of the case, of the alleged failure, or anticipated failure, and how and when representations in relation to it (and related matters) can be made. We will give the Scheme Supplier a reasonable opportunity to respond considering factors such as the complexity of the alleged failure. In certain circumstances, however, the Scheme Supplier may be expected to respond within a short period of time.

Decisions on Serving Notices

- 5.4. Decisions on whether to issue an Anticipated Default Notice, an Enforcement Notice, a Penalty Notice or take steps to recover any unpaid sums as a civil debt will normally be made by a senior civil servant, with responsibility for enforcement. This may follow a meeting of the EOB, where appropriate and timing permits.
- 5.5. Certain matters may be referred to our Enforcement Decision Panel ("EDP") for consideration. The EDP consists of a pool of members who are employees of the Gas and Electricity Markets Authority, one of whom is appointed as the EDP Chair. EDP members are employed specifically for EDP duties and work independently from the case team.
- 5.6. Where a Penalty Notice is to be issued, regard will be had to the Authority's statement in Respect of Penalties (Annex 1) when setting the amount of any financial penalty.

Service of an Anticipated Default Notice

- 5.7. We may serve an Anticipated Default Notice if we reasonably believe that it is likely that any of the circumstances set out paragraph 2.4 will arise.

- 5.8. A Scheme Supplier upon whom an Anticipated Enforcement Notice has been served must comply with the requirements of the notice. Where we have served an Anticipatory Enforcement Notice, and any part of the amount specified in that notice is not paid by the date on which payment of the amount is due, the Anticipatory Enforcement Notice will be deemed to be an Enforcement Notice the day after the due date in respect of such amount as remains outstanding.
- 5.9. We will publish the Anticipatory Default Notice and any notice revoking or varying an Anticipated Default Notice as soon as reasonably practicable after the date on which it is served. We will also publish details of any sums that Scheme Supplier pays after publication of the Anticipated Default Notice.
- 5.10. An Anticipated Enforcement Notice may be served before any associated Penalty Notice, alongside an associated Penalty Notice or, occasionally, after an associated Penalty Notice has been served.

Service of an Enforcement Notice

- 5.11. We may serve an Enforcement Notice where we are satisfied that any of the circumstances set out paragraph 2.6 have arisen.
- 5.12. A Scheme Supplier upon whom an Enforcement Notice has been served must comply with the requirements of the notice.
- 5.13. Where a Scheme Supplier fails to comply with the terms of an Enforcement Notice, we may commence civil proceedings to enforce the terms of that Notice²¹.
- 5.14. We will publish the Enforcement Notice and any notice revoking or varying an Enforcement Notice as soon as reasonably practicable after the date on which it is served.
- 5.15. An Enforcement Notice may be served before any associated Penalty Notice, alongside an associated Penalty Notice or, occasionally, after an associated Penalty Notice has been served.

²¹ Regulation 53(8) of the GGSS Regulations

Recovery of a debt as a civil debt

- 5.16. We have the power under the GGSS Regulations²² to recover unpaid amounts as civil debts in the circumstances set out at paragraph 2.13 above.
- 5.17. We may take steps to recover an unpaid amount as a civil debt without first serving an Anticipated Enforcement Notice or Enforcement Notice.

Service of a Penalty Notice

- 5.18. We may serve a Penalty Notice²³ in any of the circumstances set out in paragraph 2.11 above.
- 5.19. Where we propose a penalty, we will notify the Scheme Supplier of our intention to do so together with details of the amount of the penalty proposed, the reasons for this and the basis on which we have determined the amount of the proposed penalty. We will publish details of our proposal to issue a penalty.
- 5.20. The notice will also set out the period (being not less than 21 days) within which representations may be made to the Authority with respect to the proposed penalty.
- 5.21. Following the end of the period within which representations can be made, we will consider any representations which are made and not withdrawn and determine whether to issue the Penalty Notice or make any changes to the terms of the proposed Penalty Notice.
- 5.22. A Penalty Notice will include the amount of the financial penalty, the reasons for the final penalty decision and the basis on which we have determined the amount of the financial penalty. The Penalty Notice will also set out the date by which the penalty must be paid (being not less than 42 days after the date the Penalty Notice was served) and how that payment is to be made. We will publish a Penalty Notice as soon as reasonably practicable after it has been made.
- 5.23. Where, at any time before a financial penalty is due to be paid, we cease to be satisfied that the Scheme Supplier is liable for that penalty, we will serve a further notice on the Scheme Supplier, withdrawing the penalty notice, or modifying the penalty notice.

²² Regulation 58 of the GGSS Regulations

²³ Regulation 57 of the GGSS Regulations

5.24. There is no need for an Anticipatory Default Notice or an Enforcement Notice to be issued before we can issue a Penalty Notice.

6. Appeals

6.1. A Scheme Supplier served with an Enforcement Notice may appeal against that notice on the grounds that it was not within the powers conferred on the Authority or that a procedural requirement of the GGSS Regulations has not been complied with.

6.2. A Scheme Supplier served with a Penalty Notice may appeal against that notice on the grounds that it was not within the powers of the Authority, it was unreasonable to require the penalty to be paid by the specified date or a procedural requirement of the GGSS has not been complied with.

6.3. A Scheme Supplier has a period of 42 days from the date of service of the relevant notice to make an appeal.²⁴

6.4. An appeal should be made to the relevant court. In England and Wales this is the High Court, and in Scotland it is the Court of Session.

6.5. A Scheme Supplier should ensure that any appropriate legal advice is obtained.

6.6. A notice in respect of which an appeal is brought is suspended, pending determination of the appeal.

6.7. On the hearing of an appeal the court may quash the notice, affirm the notice, whether in its original form or with such modification as the court sees fit, instruct the Authority to do, or not to do, anything which is within the power of the Authority.

²⁴ GGSS Regulations, Regulation 60.

7. Closing Enforcement Action

7.1. An enforcement action may be brought to an end at any point.

7.2. Where the Authority determines that it is likely a supplier will be an exempt supplier the Authority may not continue enforcement action under Part 10 of the GGSS Regulations, other than in respect of a breach of regulations 38 and 46 to 48 of the GGSS Regulations which occurred in the relevant scheme year²⁵. See further section 8 of the Green Gas Levy Guidance²⁶ for additional details regarding provisional exemptions.

7.3. Further, where a Scheme Supplier is notified in accordance with regulation 38(10)(b) that they are an exempt supplier, the Authority must discontinue any enforcement action under Part 10 of the GGSS Regulations, other than in respect of a breach of regulations 38(3) or regulations 46 to 48 of the GGSS Regulations in relation to that scheme year²⁷. See further section 8 of the Green Gas Levy Guidance²⁸ for additional details regarding exempt suppliers.

7.4. Situations in which we might close an enforcement case include, but are not limited to where:

- we are satisfied that no contravention or failure of the GGSS regulations has taken place;
- a Scheme Supplier has taken adequate steps to rectify the breach or failure following the issue of an Anticipated Enforcement Notice or Enforcement Notice; or
- a Scheme Supplier has taken adequate steps to rectify the contravention or failure following the issue of a Penalty Notice or steps to recover a sum as a civil debt.

7.5. There may be other circumstances in which we will close cases. These include decisions taken by Ofgem that the case needs to be closed on the grounds of administrative priorities or that circumstances have changed, or factors we considered when opening the case have changed, such that continuing with the case is no longer appropriate. We will notify a Scheme Supplier of case closures in writing as soon as reasonably practicable.

²⁵ Regulation 38(6)(b) of the GGSS Regulations.

²⁶ <https://www.ofgem.gov.uk/publications/green-gas-levy-guidance>

²⁷ Regulation 50(2) of the GGSS Regulations.

²⁸ <https://www.ofgem.gov.uk/publications/green-gas-levy-guidance>

Annex 1 - Statement in Respect of Penalties

If the Authority is satisfied that a Scheme Supplier has failed to meet their obligations under the GGSS Regulations, or has knowingly provided false or misleading information, it may impose a financial penalty.

When imposing a financial penalty the Authority must determine what level of penalty is reasonable in all the circumstances of the case. Determining what a reasonable penalty is, requires the Authority to decide what is necessary to remedy the consequences of the failure or prevent future failings.

This statement in respect of penalties sets out the factors that the Authority will normally consider when determining whether to impose a financial penalty and determining the amount of any financial penalty.

Process for determining the amount of a financial penalty

On 23 March 2022, the Authority has published a statement of policy with respect to financial penalties²⁹ issued under the Gas Act 1986 and the Electricity Act 1989 (the "Sectoral Penalty Statement"). This statement sets out the process that will be followed when determining the amount of a financial penalty.

For the purposes of the GGSS Regulations, the Authority adopts the following sections of the Sectoral Penalty Statement (only in so far as they relate to the imposition of a financial penalty) for the purposes of determining whether to impose a financial penalty and the amount of any financial penalty as a result of a scheme supplier's failure to comply with their obligations under the GGSS Regulations.

- Section 3 (Imposing a financial penalty and/or consumer redress order) in its entirety³⁰
- Section 4.1 (General criteria in relation to imposing a financial penalty and/or making a consumer redress order)
- Section 5 (Process for determining the amount of a financial penalty and/or amounts payable under a consumer redress order) in its entirety.
- Section 6 (Interaction between financial penalties and compensation and/or other redress payments)

²⁹ <https://www.ofgem.gov.uk/publications/statement-policy-respect-financial-penalties-and-consumer-redress>

³⁰ In section 3.4 references to the Electricity Act and Gas Act should be read as references to regulation 57(3) of the GGSS Regulations.

References in the Sectoral Penalty Statement to a contravention or failure should be taken to be a reference to a failure to comply with an obligation under the GGSS Regulations or where a Scheme Supplier has knowingly provided false or misleading information. Further, reference in the Sectoral Penalty Policy to licensee(s) should be taken to be a reference to a Scheme Suppliers and references to the Gas Act 1986 and Electricity Act 1989 should be taken as references to the relevant part of the GGSS Regulations. For the avoidance of doubt, the Authority cannot impose a consumer redress order under the GGSS Regulations.