

Guidance



Heat Networks Statement of Policy With Respect To Financial Penalties and Consumer Redress

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1. Introduction

- 1.1 The Gas and Electricity Markets Authority ('the Authority') regulates heat networks in England, Scotland and Wales. Ofgem is the Office of Gas and Electricity Markets. It conducts the day-to-day work of the Authority and investigates matters on the Authority's behalf.
- 1.2 The Energy Act 2023¹ gives the Secretary of State the ability to make regulations with respect to Heat Networks. Under Regulation 31 of the Heat Networks (Market Framework) (Great Britain) Regulations 2025 (the 'Regulations'), where the Authority is satisfied that an authorised person has contravened or is contravening an authorisation condition or relevant requirement, the Authority may impose a financial penalty.
- 1.3 Under Regulation 37, if it is satisfied that there has been or is a contravention of any authorisation condition or relevant requirement by an authorised person, the Authority may make a consumer redress order where one or more consumers have suffered loss, damage or inconvenience as a result of the contravention. The Authority can require the authorised person to do anything necessary to remedy the consequences of the contravention or to prevent a contravention of the same or a similar kind from being repeated.
- 1.4 The Authority may impose a financial penalty, a consumer redress order or both for contraventions. This statement of policy with respect to penalties and consumer redress orders (the 'Penalty and Redress Policy') is required by the Regulations and sets out the factors that the Authority will normally consider when:
 - deciding whether to impose a financial penalty and/or make a consumer redress order;

¹ Section 217(1) of the Energy Act 2023 defines the Authority as the heat networks regulator in England Wales and Scotland. Section 217(2) also provides for the Secretary of State to make regulations providing for functions of the Authority to be carried out by another person or body.

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- determining the amount of any financial penalty; and
 - determining the requirements of any consumer redress order (including, in particular, the considerations the Authority will have regard to in determining such requirements).
- 1.5 This Penalty and Redress Policy provides that the Authority may take account of any factors which impact penalty, including but not limited to those included in this Penalty and Redress Policy, when determining the level of penalty to impose upon an authorised person where it is satisfied that that person has contravened or is contravening an authorisation condition or relevant requirement.
- 1.6 The Regulations provide that the amount of any financial penalty must be reasonable in all the circumstances of the case. When determining a reasonable penalty, regard will be had to the level of any redress ordered and/or any redress which is being or has been provided.
- 1.7 Where the Authority:
- imposes a financial penalty in respect of a contravention,
 - makes a consumer redress order which requires the authorised person to pay compensation in respect of a contravention, or
 - imposes a financial penalty and makes a consumer redress order which requires payment of compensation in relation to the same contravention,
- the amount must not exceed 10 per cent of the turnover of the authorised person, or £1 million, whichever is higher².
- 1.8 Consistent with the Authority's vision that market participants should put heat network consumers first and act in line with their obligations, the Authority expects that an authorised person will not seek to recover the costs of financial

² Regulation 45 of the Regulations

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penalties or consumer redress from their customers. Evidence that an authorised person is recovering these costs from their customers may be seen as an indication that the market is insufficiently competitive.

- 1.9 The Authority must not impose a financial penalty under the Regulations on an authorised person or make a consumer redress order, where it is satisfied that it would be more appropriate to proceed under the Competition Act 1998³. Ofgem will take this into account, as appropriate, when considering whether to open an investigation under the Regulations. The Authority may impose a financial penalty or make a consumer redress order even if it has already made a provisional or final order under the Regulations.

³ Regulations 31(7) & 44(2) of the Regulations

2. Objectives and duties in relation to financial penalties/consumer redress orders

- 2.1 The Authority's principal objective for the purposes of the Regulations is to protect the interests of heat network consumers. The Authority is required to carry out its functions under the Regulations, including taking any decisions in relation to imposing financial penalties/consumer redress orders, in a manner best calculated to further its principal objective⁴. The Authority will also comply with its other applicable general duties where appropriate⁵.
- 2.2 The Authority is clear that an authorised person should not benefit financially from any contravention. Indeed, the Authority considers that non-compliance should normally cost significantly more than compliance and that financial penalties should function as a significant deterrent to future non-compliance. The Authority will, therefore, normally seek to ensure that any financial penalty, and compensation or other payment under a consumer redress order, or any combination of them, significantly exceeds, where this can be calculated or estimated,
- the gain to the authorised person; and
 - the detriment caused to consumers or other market participants (whether individually or as a group, affected by the contravention).
- 2.3 When determining the amount of a financial penalty and/or consumer redress payment, the Authority will consider any remedial measures that have been taken by an authorised person. However, the Authority may impose a financial penalty significantly more than the gain or detriment even where the gain or detriment has been mitigated in full. The Authority considers that this may be necessary to deter non-compliance and provide appropriate encouragement for

⁴ Regulations 6 and 7(1)(a) of the Regulations

⁵ Regulation 7 of the Regulations

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all authorised persons to comply with their obligations.

- 2.4 The Authority is also required to consider its other statutory powers and duties (as appropriate) when considering the use of its penalty and consumer redress powers.

3. Imposing a financial penalty/consumer redress order

- 3.1 In deciding whether it would be appropriate to impose a financial penalty the Authority will take account of the relevant facts and circumstances of the contravention under consideration.
- 3.2 If the Authority is satisfied that a contravention has occurred or is occurring, it will consider whether it is appropriate to impose a financial penalty. The Authority will also consider whether it is appropriate to make a consumer redress order. In this context, the Authority must determine whether one or more consumers have suffered loss or damage or been caused inconvenience as a result of the contravention.
- 3.3 If the Authority considers it appropriate to impose a financial penalty, it must determine what level of penalty is reasonable in all the circumstances of the case. In considering whether it is appropriate to make a consumer redress order, the Authority must determine what is necessary to remedy the consequences of the contravention or prevent future contraventions of the same or a similar kind and may make an order to that effect.
- 3.4 The Authority will consider any representations or objections that are duly made and are not withdrawn in line with statutory requirements. The Authority will follow the procedural requirements set out in the Regulations in imposing any financial penalty or consumer redress order.
- 3.5 The following paragraphs set out the various criteria and factors which the Authority may consider in deciding to impose a penalty or make a consumer redress order. These criteria and factors are not exhaustive.

4. General criteria in relation to imposing a financial penalty/consumer redress order

4.1 The Authority will consider a range of factors in respect of (a) the imposition of a financial penalty and/or (b) the making of a consumer redress order, including, but not limited to:

- the seriousness of the contravention;
- the impact of the authorised person’s behaviours, including the extent to which the contravention damaged the interests of consumers or other market participants; and
- deterrence, including whether a financial penalty and/or restitution payment is necessary to deter future contraventions by all market participants and encourage compliance.

4.2 The Authority regularly introduces and amends conditions and requirements. Conduct which the Authority may, at one point, have taken into account in deciding whether to impose a penalty or make a consumer redress order, and at what level, may, as a result of such changes, amount to a contravention in itself. Where the Authority considers that conduct may amount to a contravention in itself, it reserves the right not to take that conduct into account in deciding whether to impose a penalty or make a consumer redress order and at what level. It may, instead, decide to investigate and impose a penalty or make a consumer redress order in respect of that conduct. That decision will be made in line with Ofgem’s Heat Network Enforcement Guidelines.⁶

⁶ [Enforcement | Ofgem](#)

5. Process for determining the amount of a financial penalty

Introduction

- 5.1 This section sets out the process for determining the authorised person’s overall financial liability as a result of the contravention.
- 5.2 Where consumers or other market participants have suffered loss, damage, inconvenience or other adverse consequences because of the contravention, the Authority will normally aim to impose a financial penalty and/or ensure that consumers and/or market participants receive appropriate redress. Further, the Authority will seek to deprive an authorised person of all the financial benefit derived from the contravention where it is proportionate, reasonable and practicable to quantify it.
- 5.3 The Authority will seek to impose a financial penalty and/or make a consumer redress order that:
- ensures that the authorised person does not benefit financially from the contravention;
 - reflects the seriousness of the contravention; and
 - deters future misconduct by the authorised person under investigation and other industry participants.
- 5.4 The total amount payable by an authorised person will normally be calculated in accordance with the following six step process.

Step 1 – Calculate the detriment and gain

- 5.5 The Authority will seek to calculate detriment to consumers and/or other market participants resulting from a contravention where it is proportionate, reasonable and practicable to quantify it.
- 5.6 The Authority will seek to calculate any gain to the authorised person resulting from the contravention where it is proportionate, reasonable and practicable to

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quantify it. Gain may come in the form of additional profits, avoided costs or some other undue advantage to the authorised person.

5.7 When calculating overall detriment and gain resulting from a contravention, the Authority will consider any overlap which may exist between quantified detriment and gain.

5.8 When the Authority has not quantified detriment or gain for the purposes of Step 1, the Authority may nevertheless take account of its view that the contravention may have resulted in gain and/or detriment in its assessment of seriousness at Step 2.

5.9 Where the Authority is satisfied that adequate redress has been or is being provided, the final penalty and/or redress ordered to be paid by the authorised person will take this into consideration. In this context, the Authority will consider the interests of consumers and/or other market participants, and accordingly will:

- consider the efforts that have been made by the authorised person to direct the redress to the affected consumers and/or other market participants and whether the redress fully reflects the loss, damage or inconvenience caused; and
- consider any payments to the affected consumers and/or other market participants that may already have been made.

Step 2 - Assess seriousness

5.10 The Authority will assess the seriousness⁷ of the contravention or failure. This is a key factor in calculating the penal element of the final liability, irrespective of whether the Authority has identified and calculated detriment and/or gain. In assessing seriousness, the Authority will consider a range of factors, including, but not limited to the:

⁷ The seriousness of a contravention or failure includes its potential seriousness.

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- nature of the contravention or failure, including the frequency and/or duration of the contravention or failure;
- behaviour of the authorised person, including the authorised person's awareness of the contravention and the extent to which the authorised person and its senior management had taken steps to secure compliance;
- impact of the contravention or failure, including any detrimental effect on the ability of Ofgem or the Authority to fulfil its statutory duties and whether there was any consumers or market participant detriment or gain (financial or otherwise) made by the authorised person.

Step 3 - Consider aggravating or mitigating factors

- 5.11 The Authority will consider aggravating and mitigating factors and adjust the penal element accordingly. Any reductions to the penal element will not affect the amount of any monies identified as detriment and/or gain.
- 5.12 The Authority will consider aggravating and mitigating factors related to the behaviour of the authorised person, including, but not limited to:
- its compliance history;
 - actions, or lack thereof, taken after becoming aware of the contravention prior to Ofgem's investigation; and
 - actions, or lack thereof, taken after becoming aware of the contravention during Ofgem's investigation.
- 5.13 When considering factors that may mitigate the level of a penalty, the Authority attaches significant value to the self-reporting of breaches. However, an authorised person should expect to receive less credit where self-reporting has not occurred promptly on first discovering that a breach has occurred. The Authority expects an authorised person to be prompt in reporting when a potential breach is first uncovered and to be prompt, accurate and comprehensive in reporting any further information that becomes known.

Step 4 - Consider an adjustment for deterrence

- 5.14 The Authority will consider whether a further adjustment to the penal element needs to be made to ensure that it will have a sufficient deterrent effect.
- 5.15 The Authority may make such an adjustment if it considers that the penal element would otherwise be insufficient to deter the authorised person, or others, from committing further or similar contraventions.

Step 5 – Apply a discount in settled cases

- 5.16 The Authority may offer the authorised person the opportunity to settle the case. Early settlement has many potential advantages. It can, for example, result in:
- consumers and/or other market participants obtaining compensation earlier than would otherwise be the case;
 - the saving of Authority resources and those of the authorised person;
 - messages getting out to the market sooner; and
 - timely and effective action that improves consumer confidence.
- 5.17 The Authority therefore considers that in many cases it is likely to be in the interests of consumers for an authorised person to be offered the chance to resolve matters through settlement. In recognition of the benefits of such agreements, the Authority may offer to reduce the penal element of the overall financial liability to be imposed on the authorised person by 30 per cent during the settlement window. Such a discount will not apply to any gain and/or detriment that has been identified by the Authority.
- 5.18 Further detail of the Authority’s settlement framework, including the beginning and end of the settlement window, is set out in Section 6 of Ofgem’s Heat Network Enforcement Guidelines.

Step 6 - Establish the total financial liability

- 5.19 The Authority will determine the total financial liability of the authorised person by adding the final penal element (Step 4 or 5) to any gain and/or detriment that the Authority has identified as resulting from the contravention (Step 1).
- 5.20 The Authority may adjust the total financial liability to ensure that any financial penalty and/or redress payments are reasonable in all the circumstances of the case.
- 5.21 The Authority may at this stage consider the effect of a proposed penalty and/or redress payment on the financial viability of an authorised person. This may include where that authorised person is a local authority or other not-for-profit entity, recognising their limited budgets and the potential for a penalty and/or redress payment to burden vital public services. If appropriate, the Authority may make adjustments accordingly in light of its principal objective and general duties⁸.
- 5.22 Having considered all the circumstances of the case, the Authority will determine an appropriate amount for any financial penalty and/or payments required under a consumer redress order (see section 6).

⁸ Regulation 7 of the Regulations. This includes cases where adjustments have been made for settlement.

6. Interaction between financial penalties and compensation and/or other redress payments

6.1 In this section we consider the interaction between financial penalties and compensation and/or other redress payments. Where the Authority requires payments under a consumer redress order, it will take this into account when determining the appropriate amount of any penalty it imposes.

Consumer detriment

6.2 The Authority starts from the principle that redress should be provided to the consumers who have suffered detriment. This may take the form of a voluntary redress package put in place following discussions between Ofgem and the authorised persons. Voluntary action can potentially bring benefits in terms of a swifter resolution for the affected consumers.

6.3 Indeed, the Authority expects an authorised person proactively to take adequate steps to remedy the consequences of a contravention by identifying the consumers that have been affected (for example by contacting customers it knows have been affected or by writing to consumers asking them to get in touch if they think they have been affected) and compensating them. Only if the Authority is satisfied that it is not possible or practicable to do this would the Authority expect the authorised person to direct payments elsewhere in line with paragraph 7.5.

6.4 The Authority may, however, make a consumer redress order where it has identified and calculated consumer detriment. Such an order will normally require compensation to be paid to those consumers who have been directly affected because of non-compliance. As with voluntary redress, the Authority will only consider requiring payments to be directed elsewhere if it is not possible or practicable to compensate the consumers who were directly affected (for example, because the administration costs would be

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disproportionate to the benefits of the redress). Any such requirements will be in line with paragraph 7.5.

- 6.5 Where the immediate customer is an authorised person that has already passed on the costs of a contravention to the end consumer, the Authority may require payment direct to the end consumer. This situation might arise where a heat network operator has contravened an obligation and its immediate customer is a property management company or housing association. However, if there is difficulty in establishing the identity of these end consumers, the Authority may in respect of this detriment impose a financial penalty or make a consumer redress order requiring a payment to be made in line with paragraph 7.5.
- 6.6 The Authority may conclude that the extent to which specific consumers are affected by some or all the detriment from a contravention or failure is difficult to determine. If so, the Authority may require a redress payment to be made to other consumers or to a consumer fund:
- where it is necessary to remedy the consequences of the contravention; or
 - where it is necessary for the purpose of preventing a contravention of the same or similar kind from being repeated.
- 6.7 For example, this may be appropriate where the total size of the detriment can be estimated but not the individual loss to each consumer. This could arise where the total detriment has been estimated via statistical sampling, or where the detriment has arisen because of harm to the market in general.

Gain

- 6.8 The authorised person may derive a gain from the contravention or failure. This gain may come in the form of additional profits, avoided costs, or some other undue advantage. Where the Authority has identified and calculated such a gain, the Authority may make a consumer redress order or impose a financial penalty in respect of this amount.

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6.9 In making this decision, the Authority will consider whether adequate redress will be achieved by returning to consumers any amount that it has calculated as detriment (see paragraphs 6.2 to 6.7). Where the Authority is satisfied that returning the amount calculated as detriment to consumers would provide adequate redress for the consumers, the Authority will normally remove any additional gain by imposing a financial penalty.

Penal element

6.10 Normally, the Authority will also impose a penal element to be paid as a financial penalty.

7. Scope of the remedies available under consumer redress orders

- 7.1 The Authority may make a consumer redress order which requires the authorised person to do anything necessary for the purpose of remedying the consequences of the contravention or preventing a contravention of the same or a similar kind in future.
- 7.2 The Authority will seek to ensure that, where consumers have suffered loss, damage or inconvenience, every effort is made to compensate the affected consumers directly. Where it is not possible or practicable to compensate individuals who have been affected by the contravention, the Authority will seek to ensure that any such loss, damage or inconvenience is acknowledged and put right in other ways.
- 7.3 The Regulations provide that consumer redress orders may require the authorised person to do anything necessary to remedy the consequences of the contravention or to prevent a contravention of the same or similar kind from being repeated.
- 7.4 A consumer redress order may in particular require the authorised person to:
- pay compensation to each affected consumer for the loss or damage suffered or for the inconvenience caused (either directly, or by setting up a scheme to which affected consumers can apply);
 - prepare and distribute a written statement setting out the contravention and its consequences; and/or
 - terminate or vary contracts it has with affected consumers.
- 7.5 The Authority may, where appropriate, also require the authorised person to make payments to consumers including those not directly affected by the contravention. Such payments may be directed to:

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- a specified category of consumers (such as consumers in vulnerable situations,); or
- an appropriate charity, trust or organisation.

7.6 The Authority may, for example, require this where it is satisfied that:

- it is not possible to quantify the loss, damage or inconvenience suffered by consumers on an individual basis;
- it is not possible or practicable to identify or trace the individual consumers that have been harmed; or
- payment to each affected consumer would be in such small amounts that requiring it would create a disproportionate administrative burden.

7.7 The Authority may require the authorised person to publish an apology for the contravention or write to consumers with accurate information about their rights.

7.8 The list above is not exhaustive. The Authority will consider the circumstances of each case in determining which things would be most effective in remedying the consequences of the contravention or in preventing a contravention of the same or a similar kind from being repeated (see section 8 for further detail).

8. Determining the requirements of a consumer redress order

- 8.1 In determining the types of redress that are reasonable for the purposes of remedying the consequences of the contravention or preventing a contravention of the same or a similar kind from being repeated, the Authority will have regard to a range of factors including, but not limited to, those outlined in paragraph 5.3 and may also consider:
- the nature of the harm suffered, having regard to factors such as the characteristics of the affected consumers and the interests of those consumers; and
 - the impact that the redress order is likely to have, including whether it will remedy the harm suffered and/or will bring the authorised person back into compliance through remedial action, taking account of any relevant action already taken by the authorised person.
- 8.2 The Authority will consider any compensation already paid by the authorised person in determining any compensation to be paid under a consumer redress order. The Authority does not intend to require authorised persons to compensate individual consumers twice in relation to the same contravention. However, where the Authority is not satisfied that an authorised person has already provided or is taking steps to provide full compensation to consumers, the Authority will expect to require further compensation payments to be made.
- 8.3 The Authority will normally include a provision in each consumer redress order that requires the authorised person to demonstrate or confirm compliance with the order. The Authority may, in the consumer redress order, require the

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authorised person to engage a third party to provide independent verification that the authorised person has complied with the order⁹.

- 8.4 The Authority considers that the costs associated with administering the requirements set out in a consumer redress order should be borne by the authorised person. Where appropriate, the Authority will, in determining the requirements of a consumer redress order, have regard to better regulation principles, including considering whether the likely administration costs are disproportionate to the benefits of the redress that is required.

⁹ The Authority can enforce a final order, provisional order or consumer redress order by civil proceedings. See Regulations 30(7) and 42(1) of the Regulations.

9. Application, adoption and revision of the statement of policy

- 9.1 The Authority, having undertaken such consultation as it considers appropriate, has prepared and published this Penalty and Redress Policy¹⁰.
- 9.2 The Authority will have regard to this statement in respect of any contravention or failure which occurred on or after 27 January 2026:
- i. in deciding whether to impose a financial penalty; and
 - ii. in determining the amount of any financial penalty¹¹.
- 9.3 The Authority will have regard to this statement:
- i. in deciding whether to make a consumer redress order in respect of any contravention;
 - ii. in determining the requirements to be imposed by any such order¹².
- 9.4 The Authority may refer to further policies or statements as are relevant to the contraventions at issue and as the Authority may publish from time to time.
- 9.5 The Authority has adopted this statement. The Authority has not delegated to the Enforcement Decision Panel, or to any member or employee of the Authority, the power to materially vary this statement. The Authority may, from time to time, revise this statement, in accordance with the Regulations. Any revised statement will be issued for consultation and published.

¹⁰ Regulations 32 and 40 of the Regulations

¹¹ Regulations 31(4) and (5) of the Regulations

¹² Regulation 40(2) of the Regulations