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Dear Anna,

**Proposals on revised enforcement guidelines**

Thank you for providing SSE with the opportunity to provide comment on this consultation.

SSE is strongly supportive of Ofgem's aims to bring greater clarity, consistency and transparency to its enforcement policies and processes. We believe that this will bring benefits to both industry and consumers.

We note however that paragraph 1.14 of the document states that in certain circumstances Ofgem may depart from the general approach to enforcement. It is not clear what scenarios Ofgem is envisaging here, however we believe that the guidelines should be applied consistently in all cases.

You will find our detailed answers to the consultation questions below. If you would like to discuss any aspect of our response in more detail please do not hesitate to contact me.

Yours sincerely,

Louise Murphy  
Regulation, Markets



## Consultation Questions

### **Question 1:** Do you agree with the proposed changes to our prioritisation criteria?

SSE is broadly supportive of Ofgem's prioritisation criteria. Point 1 of the prioritisation criteria refers to Ofgem's annual strategic priorities. SSE looks forward to commenting on Ofgem's Enforcement priorities once these are published.

SSE would like to take the opportunity to highlight the reputational risk for companies of cases being opened before sufficient evidence has been obtained. While we understand that it is more efficient for Ofgem to undertake the majority of its evidence gathering after opening a case it is important that that Ofgem gather sufficient evidence of a breach prior to opening a case.

### **Question 2:** Is our approach to the range of alternative actions appropriate?

SSE is broadly supportive of the range of alternative actions which could be considered Ofgem.

### **Question 3:** Do you agree with our proposals for making new cases public?

In principle SSE agrees with this proposal, however as noted in our answer to Question 1 we believe that a balance must be reached when considering the point that the case becomes open and therefore eligible for publication.

We would also seek clarity on making new cases public, is the intention to publish or publicise? If this decision is to be made on a case by case basis, the decision making criteria should be made available. We are also keen to understand the terms of how long the cases will be published, we would suggest that this is time limited.

It is important that the closure of cases and reasons for this is also appropriately published.

### **Question 4:** Do you agree with the proposed settlement process?

SSE broadly agrees with the proposals for settlement decisions. We note that Ofgem does not refer to partial settlement and its treatment of this scenario on its draft enforcement guidelines. SSE wishes to understand whether partial settlement is possible under the guidelines and how this will work in practise. Partial settlement could bring cases to a conclusion earlier than if decisions are contested. Therefore any redress to consumers would be delivered quicker under a partial settlement arrangement.

### **Question 5:** Do you agree with the proposed settlement windows?

SSE is broadly supportive of the proposed settlement windows proposed in the consultation document.



**Question 6:** Do you have any views on how we propose to implement the new decision-making framework?

SSE supports the introduction of greater impartiality and independence in decision making and agrees that the introduction of an Enforcement Decision Panel (EDP) and Secretariat is a positive step.

Paragraph 6.17 of the consultation document mentions the EDP terms of reference, we assume that they will set out the basis on which the panel will make decisions, as there is no detail in the guidelines as to how this will be done. These should therefore be published as a minimum and ideally consulted upon.

We are concerned that the consultation document suggests that the Authority can give guidance to the EDP without any prior consultation. This would jeopardise the independence of the panel. It is therefore important that any guidance issued is openly consulted upon before implementation.

**Question 7:** Are these proposals an effective way to allow stakeholders visibility of our timetables and performance?

SSE would find Ofgem's planned introduction of provisional timelines for how an investigation is likely to progress useful, and are supportive of Ofgem's planned publication of relevant data on case handling and the settlement process.

We would also like to understand whether the timeline proposed would refer to the formal investigation timeline only, or whether the full process of initial Ofgem inquiries through to closure will be covered. This would aid resource planning.