



Sarah Harrison
Ofgem
9 Millbank
London
SW1P 3GE

SSE
Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ

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Louise.Murphy@sse.com
01738 516 854

Dear Sarah,

Consultation on Ofgem's financial penalties and consumer redress policy Statement

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

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: Are these objectives appropriate?

SSE is supportive of Ofgem's objectives of the financial penalties and consumer redress policy statement. We agree that it is correct to ensure that companies do not benefit financially from any contravention or failure and that any financial penalties and consumer redress payments exceeds the gain to companies and the detriment caused. We also agree with the principle of achieving fair outcomes for consumers and to deter non compliance by companies.

SSE believes that Ofgem should also include best regulatory practise to ensure that companies are treated fairly by ensuring any enforcement action is proportionate, transparent and consistently applied.

SSE strongly agrees with 2.6 of the policy statement which states Ofgem will consider any remedial measures that have been taken by a regulated person.

SSE seeks clarity on the use of Redress Orders, from the policy document it appears that Redress Orders will be issued in all circumstances when redress is required. It is SSE view that agreed voluntary redress should be the preferred option with a formal Redress Order utilised only when voluntarily redress has not been agreed. A voluntarily process will be swifter and more efficient.

Question 2: Is the proposed process for determining the amount of penalties and/or redress appropriate?

SSE is supportive of the proposed process for determining the amount of penalties and redress proposed, whilst it is helpful to have published criteria, it is not clear how Ofgem will determine what level of financial penalty is reasonable. Ofgem has an obligation to ensure that their enforcement approach is transparent and consistent. A published range of financial penalties available to Ofgem would allow both consumers and business to have a better understanding of the process. It would also demonstrate a fair and open process.

Question 3: Do you agree with the proposed factors that may aggravate or mitigate the amount of a penalty or redress payment?

SSE broadly agrees with the proposed factors that may aggravate or mitigate the amount of penalty or redress payment issued. However SSE would like to see more weight given to self reporting of a contravention. Clarity is required in this area of the document to make a distinction between genuine self reporting of a contravention and a reporting of a known contravention imminently before it is released into the public domain.

Question 4: Do you agree with the proposed settlement percentage discounts in cases under the Gas Act or Electricity Act?



Clarity is sought as to whether the initial settlement is a fixed figure that will not change unless circumstances change through the settlement process.

Ofgem states that discounts will only be applied to the penal element of its fines, rather than to both the penal and redress elements. SSE agrees that settlement discounts should not apply to use of the statutory redress power, thus ensuring that affected customers are fully compensated.

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 policy on determining who receives payments where consumer redress powers are used?

SSE agrees with the proposed policy on determining who receives payments where consumer redress powers are used.

Question 6: Are there any other potential consumer redress requirements that we should specifically refer to in section 7 of the policy statement?

SSE agrees with the requirements set out in Section 7 of the policy statement.

Question 7: Do you agree with the proposed approach to the treatment of detriment?

SSE agrees with the principles of the approach to the treatment of detriment but seeks clarity in a number of areas. The extent of the coverage when assessing detriment, it is clear that detriment that can be directly linked to the contravention should be rightly covered but clarity is sought on detriment that had been indirectly caused. It would be helpful to define the terms 'loss', 'damage', 'harm' used in its consultation.

Question 8: Should administrative costs be borne by the company in addition to any compensation or other payments that may be required?

SSE is of the opinion that any administrative costs should be fair. SSE would request that in the event of a scenario where two or more companies have committed the same or similar breach and all use the redress scheme set up by one party that steps are taken to ensure that costs are distributed evenly across all parties.