



Making a positive difference
for energy consumers

Ofgem:
Enforcement Overview
2014/15

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Headlines from 2014/15

- Following the conclusion of the Enforcement Review, we published revised Enforcement Guidelines and a Statement on Financial Penalties and Consumer Redress.
- We created the Enforcement Decision Panel (EDP).
- We concluded the Community Energy Savings Programme (CESP) and Carbon Emissions Reduction Target (CERT) cases, resulting in over £50 million of penalty and redress. We have secured more fines and redress this year than ever before.
- Energy suppliers were persistently serving customers poorly, which has meant that we've opened several Enforcement investigations. Some of this behaviour has worried us to such an extent that we agreed sets of performance targets on two occasions, and subsequently agreed a 12-day sales ban for missing a target.
- We used our powers to open two Competition Act cases.
- We held our second Enforcement Conference, which took the form of an Information Exchange, and communicated lessons we felt that obligated parties could learn from, based on investigations we have completed over the past few years.

Context

We recently concluded our Enforcement Review. As part of the review, we produced new [Enforcement Guidelines](#), which set out how our Enforcement work would be conducted. We also proposed to publish figures in order to account for our Enforcement activities. These proposals have been developed in this, our first Enforcement Overview for the past financial year (April 2014 to March 2015). When we consulted on our proposed Guidelines, stakeholders were generally supportive of our proposals to account for enforcement activities, as well as providing us with some useful feedback on the type of metrics we might publish. We have taken account of these comments when designing this Overview. We will continue to produce this on an annual basis.

We make reference to alternative action and compliance work during this report. This relates specifically to the work that is being led by the Enforcement and Competition Policy Team with the assistance of other Ofgem teams. Other teams may do other pieces of compliance work without input from the Enforcement and Competition Policy team and this work is not covered here. We also have powers to open investigations under the Regulation on wholesale energy market integrity and transparency (REMIT) but do not usually report the fact that we have used these powers until a finding of breach is made, and therefore details on REMIT are not included here.

1. Investigations opened and other enforcement action

During the financial year, Ofgem has opened twelve investigations (see Annex 1). **This investigation work supports the delivery of Ofgem's five-core Consumer Outcomes: lower bills, reduced environmental damage, improved reliability and safety, better quality of service and wider benefits for society as a whole, including support for those struggling to pay their bills.** We have used our Competition powers by opening two investigations.

In our new [Enforcement Guidelines](#), we described times we may use alternative action. This can happen instead of opening a case, or to swiftly conclude an investigation to deliver consumer outcomes without the formal process to finding of a breach. We have concluded three cases using our old Guidelines, where we opened informal investigations. These then closed when the party under investigation offered to pay redress.

Since we published the new Guidelines, we have used alternative action on one occasion (SSE relating to a breach of the Transmission Constraint Licence Condition) to address compliance issues rather than opening a case.

In two of our open investigations we have seen particular areas of concern and we have made use of performance targets to quickly alleviate customer harm, which, in one case, resulted in one supplier stopping outbound sales for 12 days.¹ Finally, we have also monitored a provisional order we issued to Economy Energy in February 2014 until we were happy that its behaviour was satisfactory. While we have removed some of the provisions of this order, some others remain.²

¹ <https://www.ofgem.gov.uk/publications-and-updates/investigation-scottish-power%E2%80%99s-compliance-standards-conduct-slc-25c-slc-27-provision-final-bills-and-gas-and-electricity-cchs-regulations-2008>; <https://www.ofgem.gov.uk/publications-and-updates/investigation-npower%E2%80%99s-compliance-standards-conduct-standard-licence-condition-25c-standard-licence-condition-27-provision-final-bills-and-gas-and-electricity-consumer-complaints-handling-standards-regulations-2008>

² <https://www.ofgem.gov.uk/publications-and-updates/economy-energy-provisional-order>

2. Completed investigations and performance

During this time, we have also closed thirteen investigations (see Annex 2). We have found a breach in all of these investigations and all the parties involved settled the cases. As mentioned above, we have also completed four (see Annex 3) investigations in which we have not found a breach but have accepted a redress package from the parties involved.

Our recent Enforcement Review aimed to increase the impact and efficiency of Enforcement work. The average case length for cases closed in 2014/15 is a big improvement from the year before, but still reflects the fact that we were finalising the remaining cases that we opened in 2010. We look forward to seeing further improvements next year.

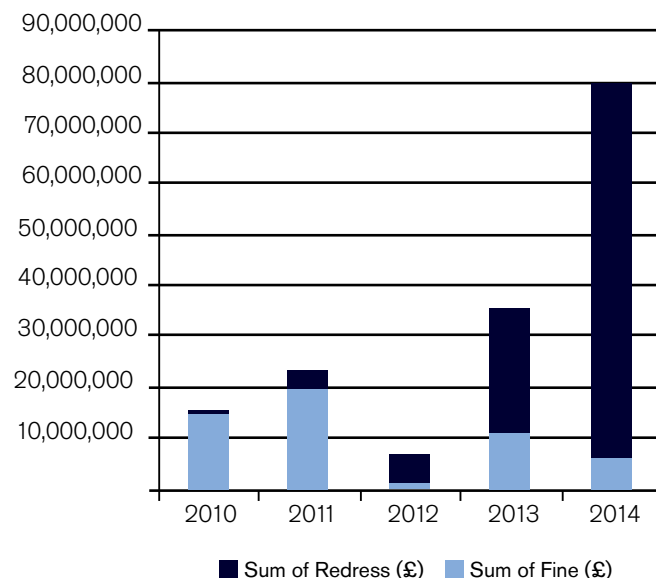
Financial Year	No. of formal cases completed	Case length in months		
		Shortest	Longest	Average
2010	2	17	61	39
2011	13	4	30	16
2012	4	17	41	25
2013	7	23	55	34
2014	13	3	51	24

3. Penalties and other remedial measures

We have secured £79.1 million of penalties and redress from direct enforcement action this financial year. This represents a large increase from the value of penalties and redress secured in the four years from 2010/11 to 2013/14, when we secured on average £20.3 million per year. Benefits to consumers go wider than simply financial packages; we have secured changes to company behaviour, ensuring that no breaches are ongoing, before the investigations concluded.

Our use of redress has also increased. During the four years from 2010/11 to 2013/14, redress per year as a percentage of the total penalty and redress figure was 44.7%, compared to the redress proportion for 2014/15 which was 92.5% (see fig. 2). Nearly all of this redress went to affected or vulnerable consumers.

In the CESP and CERT cases, payments were made to support national and local charities such as National Energy Action, Citizens' Advice Bureau and New Gorbals Housing Association. Because of the large value of the payments, we have worked closely with the companies and the recipients to ensure that suitable governance arrangements are in place to provide assurance over how the money is spent.



4. Current investigations and forward look

We published our first annual enforcement priorities in September 2014. These were to:

1. Adopt a low tolerance approach to all inaccurate, misreported and late data.
2. Send a strong signal that non-compliance with deadlines is not acceptable.

Inaccurate data and missed deadlines make it harder for us to hold companies to account when they fail consumers. It is ultimately consumers who feel the impact of poor reporting and missed deadlines, because these failings may cover up areas where companies aren't delivering the services consumers expect. In 2014/15, we have opened one case that relates to priority 1 and three cases that relate to priority 2. Our annual enforcement priorities for 2015/16 will be announced when we hold our Enforcement Conference in summer 2015.

Our current portfolio also consists of two Competition Act 1998 cases and seven other cases in which suppliers may have breached their supply licence condition. The majority of these are in their evidence gathering phase.

We held our second Enforcement Conference, which took the form of an Information Exchange, and communicated lessons we felt that obligated parties could learn from, based on investigations we have completed over the past few years. These focussed on the themes of mis-selling, transfer blocking, implementing new systems and complaints handling, imposing restrictions until customer standards have improved and redress.

Annex 1 – Cases Opened

Case Opening Date	Company	Case Type
2014 June	E.On	Incorrect Billing
2014 June	NPower	Customer Service
2014 September	Economy Energy	Mis-selling
2014 October	British Gas	Missed Deadlines
2014 October	EON	Missed Deadlines
2014 October	Npower	Missed Deadlines
2014 October	BES	Misrepresentation by Brokers
2014 November	ScottishPower	Customer Service
2014 November	Utilita	Transfer Blocking
2014 December	UK Capacity Reserve	Capacity Market Rules
2015 January	SSE	Competition Act (Chapter II)
2015 January	Not Released	Competition Act (Chapter I)

Please note, the opening of an investigation does not imply that we have made any finding(s) about non-compliance.

**Annex 2 -
Cases Closed with
finding of breach**

Case Decision Date	Company	Case Type	Fine (£)	Redress Payment (£)	Total
2015 March	UK Capacity Reserve	Capacity Market Rules	£ -	£ -	£ -
2015 March	Intergen	Missed deadlines	£3	£10,999,997	£11,000,000
2015 March	Drax	Missed deadlines	£5,000,000	£23,000,000	£28,000,000
2015 March	British Gas	Missed deadlines	£1	£10,599,999	£10,600,000
2015 March	British Gas	Missed deadlines	£1	£499,999	£500,000
2015 March	ScottishPower	Missed deadlines	£2	£2,399,998	£2,400,000
2015 March	SSE	Missed deadlines	£9	£1,749,991	£1,750,000
2015 March	GDF Suez	Missed deadlines	£2	£449,998	£450,000
2014 October	EDF	Complaints handling	£1	£3,000,000	£3,000,001
2014 July	ScottishPower	Tariff rules	£1	£750,000	£750,001
2014 July	E.ON	Mis-selling	£1	£12,000,000	£12,000,001
2014 June	Npower	Misreporting	£125,000	£959,900	£1,084,900
2014 May	British Gas	Switching practices	£800,000	£3,200,000	£4,000,000
			£5,925,021	£69,609,882	£75,5344,903

**Annex 3 –
Alternative Action**

Date	Company	Reason	Voluntary Redress Payment (£)
2015 March	SSE	Transmission Constraints	£100,000
2014 July	British Gas	Mis-selling	£1,000,000
2014 May	SSE	Network connections	£750,000
2014 May	British Gas Business	Renewal Processes	£1,650,000
			£3,500,000

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