

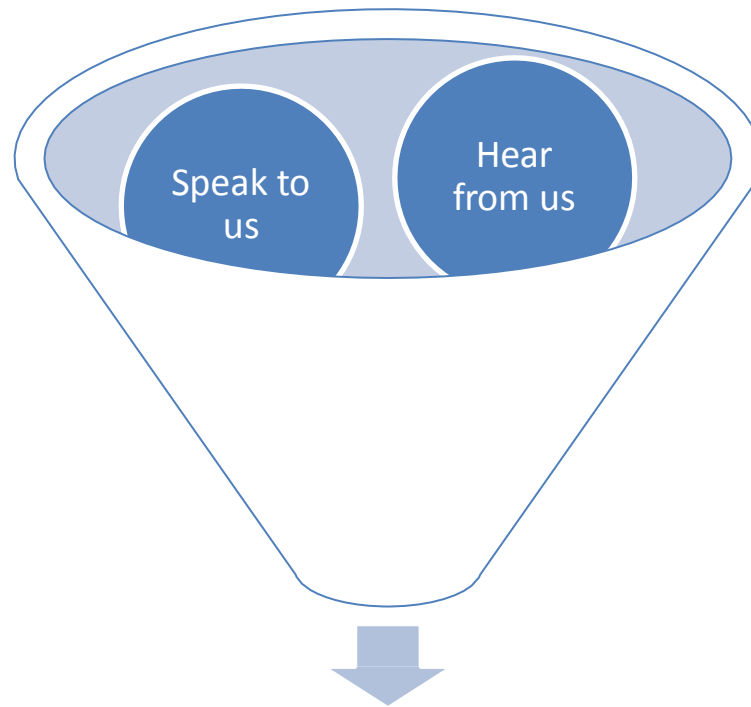
Enforcement Information Exchange

5th December 2014

ofgem

10:00	Welcome
10:10	Enforcement Conference 2015
10:15	Lessons Learned
10:45	Break
11:00	Enforcement Review Showcase
11:30	Roundtable Discussions
12:30	Q&A
12:50	Closing Remarks

Today's Aims



Exchange Information

- Shifting to a cycle of annual spring conferences
- We will present our annual priorities and reflect on further closed cases
- This is your chance to shape it

Lessons learned from past enforcement cases

Anthony Pygram

Partner, Enforcement and Competition Policy, Ofgem

Misselling

- Management arrangements must ensure sales agents are compliant. This includes sufficient oversight by senior management, including the Board of the licensee¹
- Calculation of energy consumption is essential in every case of marketing activities to ensure that the estimate relates directly to each individual customer's circumstances²
- Audits and compliance checks must not be undertaken by managers with a financial interest in the outcome of the audit³
- Training provided to sales agents must thoroughly cover their obligations under the licence conditions and the conduct of marketing activities⁴

¹ See 5.18 <https://www.ofgem.gov.uk/ofgem-publications/84947/spnoticeofintentiontoimposeafinancialpenaltyslc2522oct2013.pdf>

² See 3.4 <https://www.ofgem.gov.uk/ofgem-publications/84947/spnoticeofintentiontoimposeafinancialpenaltyslc2522oct2013.pdf>

and 3.2 <https://www.ofgem.gov.uk/ofgem-publications/86312/noticeofintentiontoimposeapenaltyonpowerslc25investigation20december2013.pdf>

³ See 3.8 <https://authors.ofgem.gov.uk/ofgem-publications/88565/noticeofdecisiontoimposeapenaltyoneon2july2014.pdf>

⁴ See 3.25 <https://authors.ofgem.gov.uk/ofgem-publications/88565/noticeofdecisiontoimposeapenaltyoneon2july2014.pdf>

Transfer blocking

- Transfer blocking that is in breach of licence conditions can cause significant harm to consumers and the market.
- Adequate systems must be in place to detect when objections to transfer are invalid¹
- Suppliers are able to object to a proposed supplier transfer only in specific circumstances²
- Sufficiently detailed information must be provided to customers to allow them to understand the reasons for objection and the specific steps they need to take to resolve or dispute it³

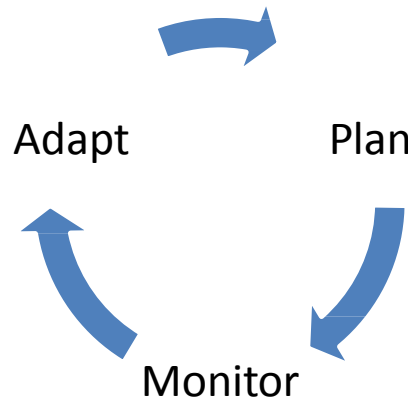
¹ See 2.9 <https://www.ofgem.gov.uk/ofgem-publications/87826/noticeofdecisiontoimposeafinancialpenaltyonbritishgas20may2014.pdf>

² See SLC 14 <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

³ See 2.11 <https://www.ofgem.gov.uk/ofgem-publications/87826/noticeofdecisiontoimposeafinancialpenaltyonbritishgas20may2014.pdf>

Implementing new systems and consumer complaints

- We witnessed substantial increases in complaint levels and call waiting times during the mass migration stage of implementing a new IT system¹
- We have also opened investigations into compliance with the Standards of Conduct which came into force in August 2013²
- Emphasis on minimising harm to consumers during and immediately after migration.



¹ See 3.3 <https://www.ofgem.gov.uk/ofgem-publications/90675/edfnoticeofdecisiontoimposeafinancialpenalty.pdf>

² See <https://www.ofgem.gov.uk/publications-and-updates/new-standards-conduct-suppliers-are-first-step-simpler-clearer-fairer-energy-market>

Imposing restrictions until customer standards have improved

- Imposing immediate restrictions is a tool we will employ if we believe swift action is required to protect consumers.
- We issued a provisional order to Economy Energy due to concerns around particular behaviours¹
- We have secured commitments for immediate action from npower and Scottish Power alongside the opening of investigations²

¹See <https://www.ofgem.gov.uk/publications-and-updates/economy-energy-provisional-order>

²See <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>

And <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>

Redress

- In sectoral cases will generally consider settlement in all cases¹
- Redress should benefit consumers who have lost out – or a close proxy² – but should not get in the way of others meeting obligations or create admin burden on Ofgem;
- Redress has to be demonstrably additional to business as usual (we might require Board-level assurance);
- We will need assurance the money is paid out and then used properly by the recipient – consider reporting arrangements;
- New settlement windows mean there is limited time – think and plan ahead.

¹See 5.12 <https://www.ofgem.gov.uk/publications-and-updates/enforcement-guidelines-decision-document>

²See 1.3 <https://www.ofgem.gov.uk/ofgem-publications/87826/noticeofdecisiontoimposeafinancialpenaltyonbritishgas20may2014.pdf>

And 1.2/1.3 <https://www.ofgem.gov.uk/ofgem-publications/87785/noticeofintentiontoimposeafinancialpenaltyone.on16may2014.pdf>

Questions

Break

Enforcement Review Showcase

Anna Stacey,
Head of Policy, Enforcement and Competition Policy, Ofgem

To achieve a culture where businesses put energy consumers first and act in line with their obligations

Three Strategic Objectives:

1. Deliver credible deterrence across the range of our functions
2. Ensure visible and meaningful consequences for businesses who fail consumers and do not comply
3. Achieve the greatest positive impact by targeting enforcement resources and powers

- What has the Enforcement Review delivered?
- The new Enforcement Process
- Stakeholder feedback
- Questions

What has the Review delivered?

Objectives

Increase in the impact and efficiency of enforcement activities

Develop a clear strategic framework for selecting and prioritising the most appropriate enforcement cases

Improve the transparency, proportionality and visible fairness of enforcement activities

Incorporate the enforcement aspects of other major changes in a coordinated and efficient manner

Change Introduced

Updated Enforcement Processes
empowering staff; improving effectiveness & efficiency

Enforcement Oversight Board
consistent, strategic selection and governance of Enforcement cases

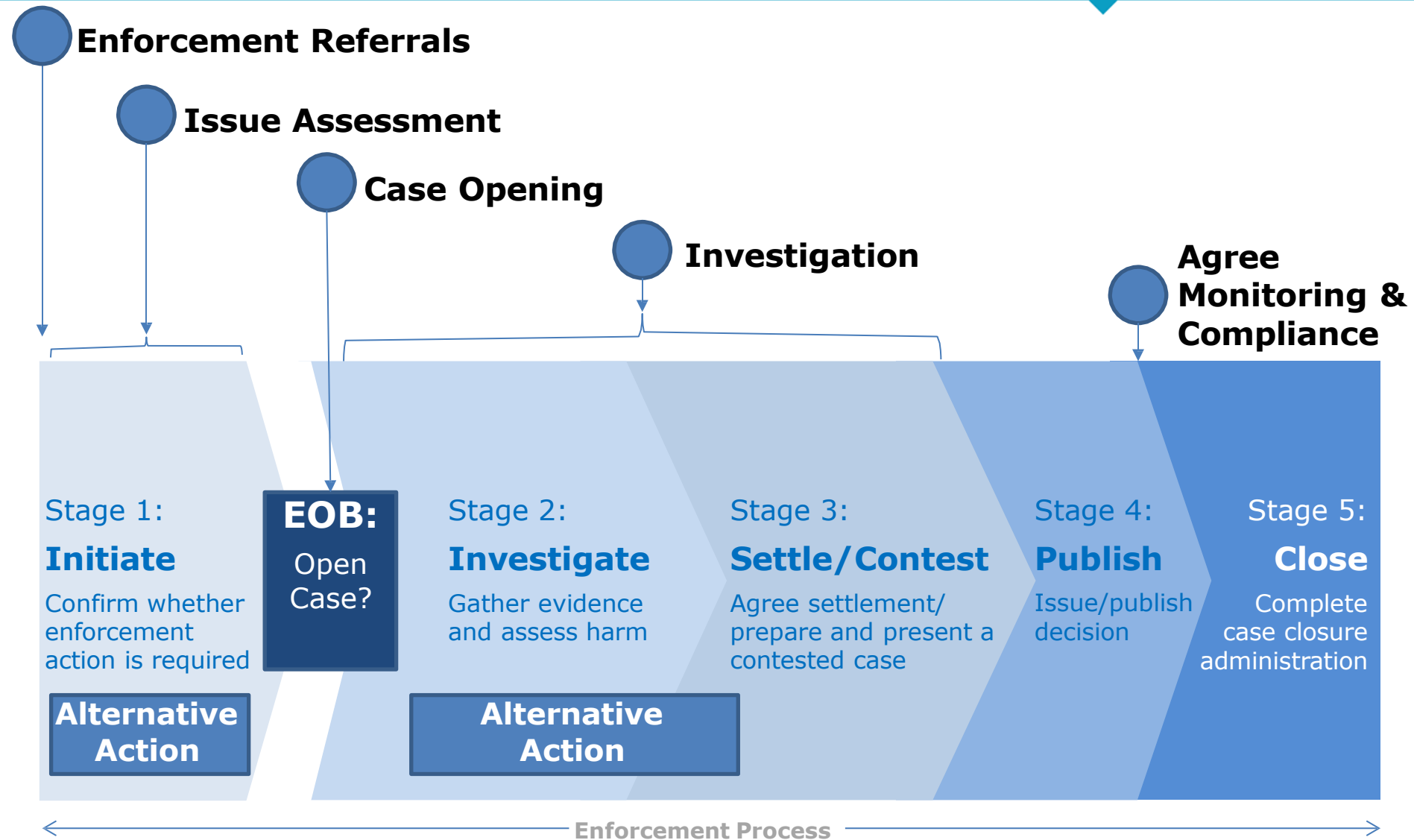
Enforcement Decision Panel
sustainable, visibly independent decision-making for contested cases

Penalty & Redress Policy
including redress; maximising impact of enforcement activities and strengthening deterrence

Enforcement Guidelines
up-to-date, transparent and more accessible to stakeholders

Supporting Technology
providing information to assist in the management of cases and oversight of all Enforcement activity

The new Enforcement Process



Case Opening:

- Are we investing in the right cases?
- Are we optimising our capacity?
- How well are we executing?
- Are we delivering the expected impact?

Stage 1:

Initiate

Confirm whether
enforcement
action is required

**Alternative
Action**

EOB:

Open
Case?

Stakeholder Considerations

- Pragmatism
- Clarity of enforcement priorities
- Transparency and engagement
- Guidance and interpretation

Case Investigation:

- Project managing cases
- Alternative action
- New mechanisms for settlement and imposing penalties in sectoral cases
- Reinforcing good ways of working

Stage 1:

Initiate

Confirm whether enforcement action is required

Alternative Action

EOB:

Open Case?

Stage 2:

Investigate

Gather evidence and assess harm

Alternative Action

Stakeholder Considerations

- Pragmatism
- Understanding
- Accountability and timelines
- Efficiency and timely outcomes
- Engagement

Stakeholder Considerations

- Clarity of enforcement priorities - deterrence
- Visible fairness, clarity and connection to objectives in decision making
- Visible independence and trust
- Efficiency and timely outcomes

Stage 1:

Initiate

Confirm whether enforcement action is required

Alternative Action

EOB:

Open Case?

Stage 2:

Investigate

Gather evidence and assess harm

Alternative Action

Stage 3:

Settle/Contest

Agree settlement/prepare and present a contested case

Stages 4 & 5



- New processes are now being used
- Annual Enforcement Report will be published
- Compliance project underway

Questions

Roundtable Discussions

- 1) Guidance: striking the right balance
- 2) Enforcement Review implementation
- 3) Enforcement Conference 2015

Roundtable Discussions

Roundtable Discussions

Feedback Forms

Q&A Session

Anthony Pygram – Ofgem - Partner, Enforcement & Competition Policy

Anna Stacey – Ofgem – Head of Policy, Enforcement & Competition Policy

Emma Gibson – Ofgem – Principal Legal Advisor, Sustainable Development

Gillian Cooper – Citizens Advice – Head of Retail Energy Markets

Closing Remarks

from Sarah Harrison

Ofgem is the Office of Gas and Electricity Markets.

Our priority is to protect and to make a positive difference for all energy consumers. We work to promote value for money, security of supply and sustainability for present and future generations. We do this through the supervision and development of markets, regulation and the delivery of government schemes.

We work effectively with, but independently of, government, the energy industry and other stakeholders. We do so within a legal framework determined by the UK government and the European Union.