

Trust Statement



Accounting officer's foreword to the trust statement

Scope

Ofgem is governed by the Gas and Electricity Markets Authority. The Authority's responsibilities are set out in the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002, the Energy Acts of 2004, 2008, 2010, 2011 and 2013 and related legislation.

The Authority is responsible for taking enforcement action (including imposing financial penalties) in respect of the energy companies that it regulates, and collecting the England and Wales, and Scotland fossil fuel levies.

The trust statement reports the revenues and expenditures and assets and liabilities related to fines, penalties and the fossil fuel levies for the financial year 2019-20. These amounts are collected by us for payment into the consolidated fund³.

This statement is also prepared to disclose any material expenditure or income that has not been applied for the purposes intended by parliament, or material transactions that have not conformed to the authorities which govern them. There was no such expenditure or income during 2019-20.

Background

Penalties

Under the Gas Act 1986 and the Electricity Act 1989 the Authority may impose a statutory penalty where it is satisfied that a regulated party (eg licence-holders) has contravened or is contravening any relevant condition or requirement, or has failed or is failing to achieve any prescribed standard of performance.

No penalty imposed by the Authority under the Gas Act 1986 and the Electricity Act 1989 may exceed 10% of the turnover of the regulated party.

We also have powers under The Electricity and Gas (Market Integrity and Transparency) (Enforcement etc) Regulations 2013 to monitor, investigate and impose penalties in respect of against breaches of the Regulations on Wholesale Energy Market Integrity and Transparency (REMIT). We also have powers under the Network and Information Systems Regulations 2018 to impose penalties in respect of breaches of those Regulations. We have also have concurrent powers with the Competition and Markets Authority (CMA) to enforce the prohibitions on anti-competitive agreements and abusing positions of dominance in the Competition Act 1998 and in articles 101 and 102 of the of the Treaty on the Functioning of the European Union. Where an infringement is found, we may decide to impose a financial penalty up to 10% of the company's applicable turnover if we are satisfied that the infringement was committed intentionally or negligently.

Any sums imposed by the Authority by way of a formal legislative penalty are paid into the consolidated fund. In 2019-20 the penalties imposed which were payable to the consolidated fund amounted to approximately £3 million⁴. We give notice to the regulated party that we propose to impose a penalty on and consult on this.

³ We collect the fines, penalties and fossil fuel levies for Scotland, England & Wales. This was reviewed by the auditors and signed off for 2019-20.

⁴ This includes a penalty of £200,000 imposed on Economy Energy which is now in administration.

Financial review

This year we imposed penalties on companies. This financial review covers penalties that resulted in the imposition of penalties payable to the consolidated fund.

Engie Global Market

We investigated Engie Global Market (EGM) for breach of the Regulation on Energy Market Integrity and Transparency (REMIT). We found that EGM had breached Article 5 of REMIT. Article 5 provides that ‘any engagement in, or attempt to engage in, market manipulation on wholesale energy markets shall be prohibited’

We found that between the period 1 June 2016 and 31 August 2016 a trader working in the name, and on behalf, of EGM, contravened Article 5 on a number of occasions. EGM was liable for this breach.

We found that EGM engaged in market manipulation in relation to the month ahead contract for the delivery of natural gas at the National Balancing Point on the Over-the-counter wholesale energy market. Transactions or orders were issued that gave, or were likely to give, false or misleading signals as to the supply of, or demand for, or price of wholesale energy products or that secured or were likely to secure the price of wholesale energy products at an artificial level.

EGM admitted the breach of Article 5 of REMIT and agreed to settle during the early settlement window. We discounted the penalty by 30% in accordance with the REMIT Penalties Statement published on 23 June 2015. We considered that it was appropriate to reduce the financial penalty due from EGM in respect of the contraventions of Article 5 to £2,128,236.

E (Gas and Electricity) Limited

We had opened an investigation in September 2016 to establish if there had been an infringement of Chapter I of the Competition Act 1998 (“CA98”). The investigation concerned a suspected anti-competitive agreement between Economy Energy Trading Limited (“Economy Energy”), E (Gas and Electricity) Ltd (“EGEL”) and Dyball Associates (“Dyball”) (“the Parties”). On 29 May 2018, we issued a statement of objections to the three Parties to the investigation.

We found that Economy Energy, EGEL and Dyball entered into an agreement and/or concerted practice to share markets and/or allocate customers between Economy and EGEL in relation to the supply of gas and electricity to domestic customers in Great Britain. Under the infringement, Economy, EGEL and Dyball agreed that neither Economy and EGEL, nor their sales agents, would actively target customers already supplied with gas and/or electricity by the other, but each other’s existing customers would be allowed to switch between the two businesses if they pro-actively sought to do so. The infringement was supported by the Parties sharing commercially sensitive and strategic information, in the form of details of their current customers. This agreement and/or concerted practice had as its object the prevention, restriction or distortion of competition.

We found that the Parties committed the Infringement intentionally or negligently and decided to impose financial penalties of £650,000 on EGEL

Economy Energy

Economy Energy was also one of the parties being investigated for an infringement of Chapter I of the Competition Act 1998 (“CA98”). We found that the Parties committed the Infringement intentionally or negligently and we decided to impose a financial penalty of £200,000 on Economy Energy. Economy Energy is now in administration.

Dyball

Within this investigation, Dyball was party to the infringement and intended to contribute, and did contribute, to the common objectives pursued by Economy and EGEL. Dyball did this by facilitating the sharing of markets and allocation of customers between Economy Energy and EGEL, through its own conduct, in designing, implementing and maintaining software systems that allowed the acquisition of certain customers to be blocked and customer lists to be shared; and by, itself, sharing customer lists and instructions to block particular customers from switching between Economy Energy and EGEL. Dyball was aware of the actual conduct planned and/or put into effect by Economy Energy and EGEL in pursuit of the objective of sharing markets and/or allocating customers. Therefore, Dyball participated as a facilitator in the infringement.

We found that Dyball committed the Infringement intentionally or negligently and we decided to impose a financial penalty of £20,000 on Dyball.

The level of the penalties reflected the seriousness of this infringement, the need to ensure Economy Energy, EGEL and Dyball, and other undertakings, are deterred from engaging in this kind of collusive conduct, and the need for a penalty to be proportionate.

Statement of the accounting officer's responsibilities in respect of the trust statement

Under section 7 of the Government Resources and Accounts Act 2000, the HM Treasury has directed the Office of Gas and Electricity Markets (Ofgem) to prepare for each financial year a trust statement in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of Ofgem and of its income and expenditure, Statement of Financial Position and cash flows for the financial year.

- In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:
- observe the Accounts Direction issued by the HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the financial statements;
- prepare the financial statements on a going concern basis; and
- confirm that the trust statement as a whole is fair, balanced and understandable and take personal responsibility for the trust statement and the judgements required for determining that it is fair, balanced and understandable.

HM Treasury has appointed the Chief Executive as Accounting Officer of Ofgem. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding Ofgem's assets, are set out in Managing Public Money published by the HM Treasury.

As the Accounting Officer, I have taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to establish that Ofgem's auditors are aware of that information. So far as I am aware, there is no relevant audit information of which the auditors are unaware.

Governance statement

Ofgem's governance statement, covering both the resource accounts and the trust statement, is on pages 36 to 47.

The certificate and report of the Comptroller and Auditor General to the House of Commons

Opinion on financial statements

I certify that I have audited the financial statements of Office of Gas and Electricity Markets Trust Statement for the year ended 31 March 2020 under the Government Resources and Accounts Act 2000. The financial statements comprise the Statement of Revenue, Other Income and Expenditure, the Statement of Financial Position, the Statement of Cash Flows and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them.

In my opinion:

- the financial statements gives a true and fair view of state of affairs of the Office of Gas and Electricity Markets Trust Statement as at 31 March 2020 and of the net revenue for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

Opinion on regularity

In my opinion, in all material respects the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom. My responsibilities under those standards are further described in the Auditor's responsibilities for the

audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Office of Gas and Electricity Markets in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern

I have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the Office of Gas and Electricity Markets use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Office of Gas and Electricity Markets have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Office of Gas and Electricity Markets' ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Responsibilities of the Accounting Officer for the audit of the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office of Gas and Electricity Markets' internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.

- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Other Information

The Accounting Officer is responsible for the other information. The other information comprises information included in the annual report and Accounting Officer's foreword to the trust statement, but does not include the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

Opinion on other matters

In my opinion:

- the information given in the Annual Report and Accounting Officer's foreword to the trust statement for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Gareth Davies

Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
Victoria, London SW1W 9SP

17 July 2020

Statement of revenue, other income and expenditure for the year ended 31 March 2020

	2019-20	2018-19
	£000	£000
Revenue		
Fines and penalties		
Penalties imposed	3,006	2,400
Fossil Fuel Levy		
Fossil Fuel Levy (England and Wales)	-	1,818
Fossil Fuel Levy (Scotland)	-	540
Finance Income		
Interest on bank deposits (England and Wales)	205	183
Interest on bank deposits (Scotland)	280	253
Total revenue and other income	3,491	5,194
Expenditure		
Administration and wind up costs associated with Fossil Fuel Levy	(186)	(11)
Credit losses	(200)	-
Total expenditure	(386)	(11)
Net Revenue for the Consolidated Fund	3,105	5,183

There were no recognised gains or losses accounted for outside the above statement of revenue, other income and expenditure.

The notes at pages 99 to 101 form part of this statement.

Statement of financial position as at 31 March 2020

	2019-20	2018-19
	£000	£000
Current assets		
Receivables and accrued fees	24	307
Cash at bank – UK consolidated fund	31,947	31,671
Cash at bank – Scottish consolidated fund	43,657	43,352
Net current assets	75,628	75,330
Current liabilities		
Payables	-	(2)
Total net assets	75,628	75,328
Represented by:		
Balance on UK consolidated fund account	31,971	31,884
Balance on Scottish consolidated fund account	43,657	43,444
	75,628	75,328



Jonathan Brearley
Chief Executive

15 July 2020

The notes at pages 99 to 101 form part of this statement.

Statement of cash flows for the year ended 31 March 2020

	2019-20	2018-19
	£000	£000
Net cash flow from operating activities	580	2,917
Cash paid to the consolidated funds	-	(3,003)
Increase/ (decrease) in cash in the period	580	(86)

Notes to the cash flow statement

Note A: Reconciliation of net cash flow to movement in net funds

	2019-20	2018-19
	£000	£000
Net revenue for the consolidated fund	3,105	5,183
(Increase)/ decrease in non-cash assets	283	134
Increase/ (decrease) in liabilities	(2)	-
Non-cash outflow to consolidated fund	(2,806)	(2,400)
Net cash flow	580	2,917

Note B: Analysis of changes in net funds

	2019-20	2018-19
	£000	£000
Increase/ (decrease) in cash in this period	580	(86)
Net funds at 1 April	75,024	75,110
Net funds at 31 March	75,604	75,024

Notes to the trust statement

Closure of the Fossil Fuel levy scheme

On 31 March 2019, the fossil fuel levy schemes closed and both of the companies set up to administer the schemes, NFPA and NFPA Scotland, are in the process of being liquidated. During 2020-21, the remaining cash balances will be transferred to the Consolidated Fund (England and Wales scheme) and the Scottish Consolidated Fund (Scotland scheme).

1. Statement of accounting policies

1.1 Basis of accounting

The trust statement is prepared in accordance with the accounts direction issued by the Treasury under section 7 of the Government Resources and Accounts Act 2000 and in accordance with the accounting policies detailed below. These have been agreed between Ofgem and HM Treasury and have been developed with reference to International Financial Reporting Standards and other relevant guidance. The accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

The income and associated expenditure contained in these statements are those flows of funds which Ofgem handles on behalf of the consolidated fund and where it is acting as agent rather than as principal. The financial information contained in the statements and in the notes is rounded to the nearest £'000.

1.2 Accounting convention

The trust statement has been prepared in accordance with the historical cost convention.

1.3 Revenue recognition

Fines, penalties and levies are measured in accordance with IFRS 15. They are measured at the fair value of amounts received or receivable. Income is recognised when:

- a fine or penalty is validly imposed and an obligation to pay arises
- a levy payment becomes due.

2. Revenue

2.1 Fines and penalties

During 2019-20 only nominal penalties were received by Ofgem other than those disclosed in Appendix II.

E (Gas and Electricity) Ltd paid the imposed penalty of £650,000 and £7,921.89 of interest.

3. Receivables and accrued revenue receivable

	Accrued revenue receivable at 31 March 2019	Total as at 31 March 2019	Total as at 31 March 2018
	£000	£000	£000
Fines and penalties	200	200	-
Fossil fuel levy income	0	0	280
Bank interest income	24	24	27
Total before estimated impairments	224	224	307
Less estimated impairments (see note 3.1)	(200)	(200)	-
Total	24	24	307

Receivables represent the amounts due from those on whom financial penalties have been imposed or a levy assessed at the balance sheet date, but where receipt is made subsequently.

Nominal penalties receivable do not show due to roundings.

Fossil fuel levy revenue receivable as at 31 March 2019 related to the remaining levy payments before the scheme was closed. However, pension costs and other costs of wind up were incurred when the companies began liquidation and the amount actually received was lower than what was accrued. The fossil fuel levy revenue for 2019-20 was therefore an overall expense.

3.1 Expected credit losses

As noted in the Accounting officer's foreword to the trust statement, during the year a financial penalty of £200,000 was imposed on Economy Energy. Economy Energy is now in administration. The likelihood of recovering the penalty is uncertain and therefore expected credit losses have been recognised for the full amount.

4. Payables and accrued expenditure liabilities

	Payables as at 31 March 2019	Total as at 31 March 2019	Total as at 31 March 2018
	£000	£000	£000
Fossil Fuel Levy	-	-	2
Total	-	-	2

Payables are the amounts established as due at the balance sheet date, but where payment is made subsequently.

5. Balance on the consolidated fund accounts

	2019-20	2018-19
	£000	£000
Balance on the consolidated fund accounts as at 1 April	75,329*	75,548
Net revenue for the consolidated fund accounts	3,105	5,183
Less amount paid to the consolidated funds	(2,806)	(5,403)
Balance on consolidated fund accounts as at 31 March	75,628	75,328

* Opening balance adjusted for rounding.

