

Energy Bill: Ofgem Strategy and Policy Statement

Lead Directorate: Energy Markets and Networks

Issue: The introduction of a Strategy and Policy Statement to strengthen the current regulatory framework by bringing greater clarity and coherence to the roles of the Government and Ofgem.

Policy commitment:

The Coalition Programme for Government included a commitment to review the role of Ofgem, the independent economic regulator for the gas and electricity markets in Great Britain. Conclusions of this review, which found a need for greater clarity of the roles of regulator and Government, were published in July 2011.

The review also concluded that the Government should set out the Government's strategic priorities for the energy sector in Great Britain; describe the roles of Government, Ofgem and other relevant bodies; and define policy outcomes that Government considers Ofgem to have a particularly important role in delivering.

This should provide greater clarity and certainty about the roles of Ofgem and Government and about the strategic context for Ofgem's independent regulatory role, and confidence that policy and regulation will remain aligned and coherent.

Legislative proposal:

In order to introduce a statutory Strategy and Policy Statement legislative provision is required. This will set out:

- what the Statement should contain;
- the duties for the Secretary of State and the Gas and Electricity Markets Authority in relation to the Statement;
- procedural requirements to be satisfied before the Secretary of State may designate the Statement, including consultation and Parliamentary approval;
- the process for reviewing the Statement, at least every 5 years, and
- annual reporting requirements for Ofgem.

It also will repeal the existing social and environmental guidance.

Relationship to other legislative proposals:

Establishing a Strategy and Policy Statement, should give greater certainty that the regulator is aligned with Government's strategic goals. The SPS could, for example, contain Government policy outcomes related to other legislative proposals in the Bill (e.g. EMR) that Ofgem would be required to report against.

Will this Statement compromise the independence of Ofgem?

- No. It is, and always has been, Government's role to set strategic policy direction, and the regulator's role to implement the details of regulation. That does not change. The Statement will provide confidence that there will be greater coherence between policy and regulation.

Won't the Statement create more uncertainty for the market?

- No. The Statement is intended to increase regulatory certainty as Government will be required to be clearer about its own role, and the role of the regulator. There will also be a transparent process for Government and Ofgem to consider progress towards policy goals.

Will DECC be able to set the policy outcomes five years ahead? Won't the Statement need updating more regularly?

- The statement will be intended to remain stable over at least the length of a Parliament. It will be possible for Government to seek a change in statement in specified circumstances, but to do so should require consultation and approval by Parliament, both of which are intended to act as a constraint on Government and prevent unnecessary change.

What impact will this have on consumer bills?

- The Statement will have no direct impacts on consumer bills, though strengthening the regulatory framework will offer UK business and consumers the best deal over time.

When will the Strategy and Policy Statement come into effect?

- We will start the consultation process to develop a Statement as soon as the Bill has Royal Assent. The Statement will require Parliamentary approval.

Does the Ofgem Strategy and Policy Statement mean the regulator now has the 'teeth' required?

- The Bill introduces a new document, the Strategy and Policy Statement which will set out the Government's strategic priorities for the energy sector in Great Britain, describe the roles and responsibilities of various players who implement or are affected by GB energy policy and describe policy outcomes which are to be achieved by the regulator and the Secretary of State when regulating the sector.
- This will help to increase regulatory certainty as Government will be required to be clearer about its own role, and the role of the regulator. The Bill provides for consultation on the draft statement; its approval by Parliament and reporting arrangements in relation to the statement. The Strategy and Policy Statement will replace existing guidance for the regulator on social and environmental matters.
- The Authority's principal objective - to act in the best interests of existing and future consumers - remains the same, but both the Secretary of State and Ofgem will be required to carry out their regulatory functions in a manner best calculated to further the delivery of the policy outcomes.

Why not go further and introduce a Power to Direct Ofgem?

- We considered carefully the option of taking an ad hoc Power to Direct Ofgem. We concluded that a Power to Direct would provide only some additional focus for the regulator in those policy areas where it was used. Concentrating on specific policy areas might skew the regulator's focus, and that of those holding it to account, in a way that was detrimental to other policy areas. On balance, there would be only a modest improvement on the current arrangements.

- There would be constraints on the use of any such power as it would need to be compatible with the EU Third Package. It could add a further layer of uncertainty to the current regulatory regime because concerns about how government might use this power would likely reduce predictability in the market.