



Department for  
Energy Security  
& Net Zero

# A Review of Ofgem

A Call for Evidence

Closing date: 28 February 2025



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# Introduction

Ofgem was established almost a quarter of a century ago as the independent regulator for gas and electricity markets in Great Britain. At the time, a system of independent regulation was established to drive the move towards competition in gas and electricity supply and replicate the benefits of competition in the monopoly gas and electricity networks. Since then, the remit of the regulator has evolved and expanded over time to encompass broader aims, such as supporting government to meet its net zero targets and in delivering social and environmental schemes. Competition has driven changes in the retail sector – two new entrant suppliers are now among the very largest companies in terms of market share, and there are well-established and effective price control regimes for the monopoly networks.

In recent years the energy sector has also faced huge challenges. We have seen record prices and volatility driven by the Russian invasion of Ukraine, energy companies collapsing and mistakes over the forced installation of pre-payment meters, all during a cost-of-living crisis. Polling shows overall satisfaction with energy suppliers fell below the peak recorded before Russia's invasion of Ukraine, although this is starting to recover.

As the Prime Minister set out at the International Investment Summit, the challenge is now for the UK's regulatory regimes to ensure they are fit for the modern age, creating the right conditions for growth, investment, and innovation – all while protecting consumers and, in the case of Ofgem, helping to deliver the Government's mission to make Britain a clean energy superpower. Competition has driven changes in the retail energy sector – two new entrant suppliers are now among the very largest companies in terms of market share – and there are well-established and effective price control regimes for the monopoly networks which are attracting investment this decade and beyond. But it is clear that reforms are needed.<sup>1</sup>

Government wants to see an energy market with healthy sustainable competition, where effective regulation supports economic growth and delivers better outcomes for consumers. Restoring the reputation of the energy market is a critical part of this, because without consumer trust companies cannot grow. People rightfully expecting cleaner, cheaper, more secure energy to be delivered by trustworthy and reliable companies.

To address these challenges the government will undertake a review of Ofgem. The Review will ensure that Ofgem is set up to be an effective regulator as the energy market transitions to net zero. It will ensure that Ofgem has the remit and capabilities to help drive the innovation and investment needed for the energy transition, balanced with a consumer protection regime that gives households and businesses the confidence to switch to the technologies and services that are key to delivering net zero.

The review will focus on Ofgem's mandate and duties, its remit and its role in supporting economic growth, the powers it has to protect consumers and drive standards, and how redress is made when standards are not met. This Call for Evidence is a first step of the review.

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<sup>1</sup> <https://www.which.co.uk/policy-and-insight/article/energy-where-is-customer-service-going-wrong-aMxrK3x08kJO>

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Alongside the review, the Government will continue to work with Ofgem on immediate steps to improve the experience of consumers, such as complaint handling, and on steps to ensure that the costs faced by consumers are fair and equitable, including on standing charges.

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# General information

## Why we are consulting

Ofgem was established in 2000 when the main goal was to promote competition in the energy supply sector, however, the energy market, and the role that Ofgem plays within the market, has experienced significant change over that time.

The journey to Net Zero has seen the growth of new types of companies and technologies in the market, as well as a growth in the role that the energy sector plays in the average consumers' day-to-day life, and this presents a number of challenges and opportunities. The net zero transition is an opportunity to drive economic growth and energy security.

Consumer trust will be key in delivering this transition, but the recent energy crisis, and other events such as supplier failures, have highlighted that trust needs to be restored.

Learning from these lessons and looking ahead signals that now is the time to look at what kind of regulator Great Britain needs and equip it appropriately to ensure it can meet these challenges on the horizon and fully unlock the benefits of Net Zero in a sustainable way that promotes growth whilst ensuring consumers are protected.

This Call for Evidence is the first step in this and welcomes views on how Government can establish an energy regulator fit for the more dynamic and high performing energy market of the future. Critically, it will consider how to set up Ofgem so that it can regulate a fast-changing market to deliver a fair deal for consumers as we transition to net zero.

## Consultation details

**Issued:** 19 December 2024

**Respond by:** 28 February 2025

**Enquiries to:**

Ofgem Review  
Energy Affordability and Consumers  
Department for Energy Security and Net Zero  
5<sup>th</sup> Floor  
3-8 Whitehall Place  
London  
SW1A 2AW  
Tel:  
Email: [Ofgem\\_Reform@energysecurity.gov.uk](mailto:Ofgem_Reform@energysecurity.gov.uk)

**Consultation reference:** A Review of Ofgem

**Audiences:**

We are keen to hear from all stakeholders, particularly consumer representatives, parties regulated by Ofgem and investors in the energy sector.

**Territorial extent:**

We welcome views from across the UK. Ofgem is the regulator of energy markets in Great Britain and energy regulation is a reserved matter, but we welcome responses from all interested parties.



## How to respond

**Respond online at:** <https://energygovuk.citizenspace.com/clean-electricity/ofgem-review/>

or

**Email to:** [Ofgem\\_Reform@energysecurity.gov.uk](mailto:Ofgem_Reform@energysecurity.gov.uk)

**Write to:**

Ofgem Review  
Energy Affordability and Consumers  
Department for Energy Security and Net Zero

3-8 Whitehall Place  
London  
SW1A 2AW

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

## Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [bru@energysecurity.gov.uk](mailto:bru@energysecurity.gov.uk).

# Mandate

## Legal Mandate

Ofgem does not set energy policy—that is the role of the UK Government and Parliament. Ofgem operates within the policy framework designed by Government and determined by Parliament. Its powers are defined in legislative instruments, including the Gas Act 1986, the Electricity Act 1989 and the Utilities Act 2000.

Ofgem is required to carry out its functions in the manner best calculated to further its principal objective, which is to protect the interests of existing and future consumers, wherever appropriate by promoting effective competition where that is appropriate. In carrying out this objective Ofgem has specific statutory duties which require that it must also have regard to a number of factors, including security of supply, sustainable economic growth, net zero targets and customer vulnerability (see Ofgem’s duties at Annex).

Ofgem was established by the Utilities Act 2000 (that merged Ofgas and Office of Electricity Regulation) at a time when the main goal of energy policy and regulation was to promote competition in the recently privatised sector, and when Britain’s decarbonisation journey had barely begun. The energy sector that Ofgem was designed to regulate has changed significantly since it was established and it faces new challenges, brought into sharp focus by the gas crisis of the early 2020s, which revealed the risks of continued dependence on gas markets, and weaknesses in Ofgem’s regulatory approach and its ability to protect consumers. The gas crisis led to the failure of several suppliers and necessitated a greater focus on the financial resilience of suppliers. It was followed by some high-profile cases of bad practice by some suppliers over the installation of prepayment meters. This has damaged consumer trust in the market and its regulatory arrangements.

In order to rebuild and restore consumer trust and meet the needs of consumers in a changing energy market, Government is looking at Ofgem’s mandate to protect the interests of consumers, wherever appropriate by promoting competition. Other factors such as driving innovation and robust standards may be equally or more valid than competition. Innovation includes creating better opportunities for customers to get the products and services that best suit their needs and reduces their bills.

**We are seeking views on what Ofgem’s mandate should be.**

## Duties

Duties are key to the everyday functioning of regulators such as Ofgem. Since its establishment, Ofgem has been given many new statutory duties, most recently a net zero duty and a growth duty, that it is required to balance on a case-by-case basis. These increasingly complex set of statutory duties and obligations make it harder for Ofgem to make clear and predictable decisions, adds inherent legal risks if Ofgem fails to have regard to them, and can affect Ofgem’s ability to act, and to act swiftly.

For almost every decision Ofgem takes, it must evaluate a range of statutory considerations (taking account of the relevant circumstances) and exercise its functions in the way that best

protects consumers' interests. The government acknowledges that Ofgem's statutory duties have expanded over time and what Ofgem must now consider as part of their decision making is complex. If Ofgem fails to take appropriate account of a statutory duty it creates a legal risk for Ofgem, which can make decisions more complex.

Where there are tensions between statutory duties, how these are balanced in individual circumstances is for Ofgem to decide upon, independent of Government. This is fundamental to independent regulation and protects decisions from political intervention, protecting the markets and helping to ensure stability. This is valued by businesses, consumers, and investors.

Where statutory duties are in tension with one another it is not binary, as Ofgem operates to achieve a balance. However, with more duties and responsibilities placed upon Ofgem, it can be harder for Ofgem to prioritise and make the necessary trade-offs, despite the use of Impact Assessments and the introduction of a Consumer Interest Framework to support decision making. Government will review Ofgem's statutory duties with a view to clarifying and streamlining them.

**We are seeking views on whether Ofgem's duties should be streamlined, and if they should, views on which goals might be prioritised.**

## Transparency and accountability

The principles of better regulation say that activities should be carried out in a way which is transparent, accountable, proportionate and consistent. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.

To enable Ofgem to work effectively, but independently of government, government believes it is important to have transparency about the issues the regulator is dealing with, and how they have been tackled.

For example, Ofgem regularly publishes retail market indicators that give a snapshot of the monitoring it undertakes. However, it is not clear what the outcome is and how issues have been addressed. Greater transparency about Ofgem's findings from its investigation and compliance work would enable other companies to learn from the experience of other market participants. Consumers would also learn from the published information through a better understanding of how the market works and how it may affect their own energy circumstances. Similarly, publishing detailed statistical information about suppliers' standards of performance (call waiting times, numbers of complaints, numbers of upheld complaints by the Ombudsman etc) should help drive performance and enable consumers to make more informed choices.

Ofgem is directly accountable to Parliament for the performance of its statutory functions, and is required to lay its annual report and accounts before the UK Parliament, the Scottish Parliament and the Welsh Senedd. The annual report includes a performance report, accountability report, parliamentary accountability and audit report, it is rarely the subject of Parliament scrutiny. The Review will examine the content of the report, including the Key Performance Indicators, to ensure they remain relevant and useful in holding Ofgem to account.

Parliamentary Committees occasionally carry-out inquiries on energy and regulator-related issues and will call Ofgem to give evidence and similarly with the devolved Parliaments. But there does not appear to be any regular scrutiny by Parliament of Ofgem's annual report and accounts and the performance reporting therein.

**We are seeking views on Ofgem making more detailed information available about energy company performance and behaviour, and how this might assist other licensees and consumers.**

**We are inviting views on Ofgem's annual report and the KPIs it reports against, and how to strengthen Parliamentary scrutiny of Ofgem's performance.**

## Skills and capability

A competent regulator needs to have a skilled workforce that understands the sector. It needs to appreciate the impact the regulatory changes that it makes will have on the sector. It needs to understand what is proportionate and feasible and when businesses are being obstructive for their own purposes. This is particularly an issue in the face of rapid change in the energy sector - due to the growing number of new actors in the sector, the rapid pace of delivery required to achieve net zero, and the likely transformational impact of further digitalisation. This poses questions about whether Ofgem has the right skills and capabilities, for example data, digital, and cyber skills.

Ofgem needs to be able to adapt quickly and adopt the best practices used by its domestic and international counterparts. It needs to operate with an appropriate risk appetite and with processes that are responsive and user-friendly.

**We are seeking views on the capabilities Ofgem needs to be an effective regulator in a more digital, fast-moving sector.**

# Remit

## Ofgem's Regulatory Remit

Ofgem's remit has evolved significantly since the regulator was established in 2000. Ofgem was set up principally to regulate network companies' spending and regulate the supply of electricity to consumers. Ofgem continues to perform a critical role in regulating the gas and electricity markets in Great Britain, to keep cost down whilst ensuring security of supply. Over the years, governments have given Ofgem further regulatory roles, including being appointed the regulator for: heat networks, Smart & Secure Energy Systems (SSES), cyber/Network & Information Systems and AI, nuclear regulated asset base licensees, and transportation and storage networks of carbon dioxide in the UK, hydrogen, aggregators and potentially Third Party Intermediaries.

This expansion of regulatory roles reflects how the energy landscape has diversified and become more complex over time.

In addition to the regulation of new energy markets, Ofgem has moved from regulating the Electricity System Operator to become the economic regulator for the new National Energy System Operator (NESO); the independent, public corporation responsible for planning GB's electricity and gas networks and operating the electricity system. Ofgem will be responsible for monitoring and regulating NESO's compliance with its licence obligations, approving business plans, and setting performance incentives. The move to a more strategically planned energy system will result in further evolution of Ofgem's role. Government will continue to keep under review the role of NESO and the relationship between Ofgem and NESO as we move towards our ambition for the UK to be a clean energy superpower. This work is a key component of determining Ofgem's enduring remit and roles.

Alongside Ofgem's regulatory functions it also has a Delivery and Schemes directorate which plays a crucial role in administering and operationally delivering several significant social and environmental schemes on behalf of the Department for Energy Security and Net Zero (DESNZ). These schemes, such as the Boiler Upgrade Scheme, the Great British Insulation Scheme, Energy Company Obligation and Warm Home Discount, are pivotal to achieving government's fuel poverty and net zero emissions targets.

In May 2024, government published a Strategy and Policy Statement (SPS) for Energy Policy which outlines government's strategic priorities for the sector and the roles of government, Ofgem and NESO in delivering these priorities. Ofgem and NESO have a statutory duty to have regard to the strategic priorities within the SPS. Government will update the SPS to reflect the outcomes of the review of Ofgem, current government priorities, and the respective roles of NESO and Ofgem in delivering these.

**Does Ofgem have the right regulatory remit? Have you observed harms caused by uncertainty over Ofgem's remit, or by gaps in what is currently regulated in the energy sector?**

**We are seeking views on Ofgem's role in an energy system that is now, in part, driven by strategic planning following the creation of NESO, in particular, how should regulatory strategy be aligned with strategic energy plans.**

## Delivering Investment and Innovation in the Transition

The electricity network needs both significant expansion and reform of the process for connecting supply and demand to the grid. Government is aware that the lack of timely grid connections is a significant barrier to investment. Tackling this will be critical to achieving clean power by 2030. A clear direction of travel from government, Ofgem and NESO should provide businesses with the stable conditions and clear incentives to invest in technology and infrastructure upgrades. It will also support the adoption of products which move away from higher emission activities, towards net zero.

A new Growth Duty was conferred on Ofgem in the last Parliament, which Ofgem must take into account across its regulatory activities, which may particularly apply to price controls and investment mechanisms. The Government also sets direction via the Strategy and Policy Statement, the joint work on the Connections Action Plan and Transmission Acceleration Plan.

Going further and faster in approving investments can support economic growth, and there are steps Ofgem can take to support development of a supply chain for the sector. There is also scope for driving up standards to support business energy customers, for example work on energy brokers and expanding access to the Energy Ombudsman.

**We are seeking views on the role Ofgem should play to support growth and the government's industrial strategy.**

**What can Ofgem do to increase investment and innovation in the sector?**

**What might Ofgem do to support an environment of falling energy prices?**

**What else might Ofgem do differently to support higher growth in the energy sector and wider economy?**

**Are Ofgem's regulatory processes sufficiently fast, effective and user friendly?**

## Low Carbon Technologies

Diversifying our energy supply is crucial to meeting our net zero targets and delivery of a clean power system by 2030. The accelerating uptake of new low carbon technologies in homes and businesses is transforming a relatively uniform, commoditised sector into one of increasing diversity with unclear regulatory boundaries and new risks of harm to consumers.

While most people who install low carbon technologies will see genuine benefits, research by Citizens Advice<sup>2</sup> has found that trust in these technologies is at risk of being damaged by poor quality installations and rogue traders. Without action, consumer confidence could be undermined, and this could risk us not meeting our net zero targets.

Under the Consumer Rights Act 2015 all products must be of satisfactory quality, fit for purpose and as described. Consumers have the legal right to a refund if they were unfairly pressured into buying a product or a service they did not want or if they were misled about the product or service they bought. If consumers fail to resolve their complaint with the trader,

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<sup>2</sup> <https://www.citizensadvice.org.uk/policy/publications/home-safe-giving-consumers-confidence-to-install-low-carbon-technologies/>

regulators can intervene, where they have powers to investigate and enforce the requirements of general consumer law.

Government acknowledges that the market for household and small business low carbon technology has become larger and more complex, expanding beyond traditional suppliers, and so beyond the scope of licensing by Ofgem. Parts of the market, such as making the fabric of buildings more energy efficient, are closely intertwined with the general building and home renovation sector, and both households and small businesses are increasingly choosing to invest in low carbon technologies and fabric upgrades.

While there are standards for some technologies, for example the Microgeneration Certification Scheme, consumer protections need to ensure good outcomes for all consumers who install low carbon technologies. The Consumer Rights Act 2015 designates Ofgem a domestic enforcer alongside the Competition and Markets Authority, district councils (Trading Standards) and others. However, the powers which underpin enforcement and the thresholds to take action vary widely between enforcers. Energy suppliers are already offering some low carbon technologies to their customers, and so we can expect that consumers are likely to look to Ofgem to regulate the selling, installation and performance of such products. However, the majority of installations are delivered by entities outside of Ofgem's licensing framework and current regulatory remit. As Ofgem is a designated enforcer under the Consumer Rights Act 2015, government is considering the case for reviewing the boundary of Ofgem's role in enforcing consumer law in respect of low carbon technologies and energy efficiency measures. Government is also examining the case for enhancing Ofgem's powers as regards to enforcement of consumer law (see the 'Powers' section of this Call for Evidence).

**We are seeking views on Ofgem's remit in enforcing consumer law in respect of low carbon technologies, such as heat pumps and solar panels, and what the appropriate boundaries might be.**

# Powers

## Summary of current framework and powers

To deliver upon its principal objective of protecting the interests of current and future consumers, and its role as the independent energy regulator, Ofgem has a number of powers. The right framework of powers also gives assurance to investors and supports innovation. Ofgem's powers are provided in statute, such as (but not limited to):

- Gas Act 1986
- Electricity Act 1989
- Utilities Act 2000
- Competition Act 1998
- Enterprise Act 2002
- Energy Acts of 2004, 2008, 2010, 2011 and 2023
- measures and legislation arising directly from EU legislation assimilated into UK Law (e.g. Regulation on Wholesale Energy Market Integrity and Transparency / REMIT)

Ofgem is responsible for granting licences to companies that wish to supply electricity or gas, generate electricity, or distribute electricity or gas in GB; there are 11 types of licence that Ofgem administers. The Gas Act 1986 (as amended) and The Electricity Act 1989 (as amended) (the Acts) prohibit certain activities unless the person carrying on that activity is licensed, exempt from the requirement for a licence, or eligible (under the Gas Act only) for an exception to the prohibition on unlicensed activities. This means that its powers provide the framework for Ofgem to regulate the energy market, which it does primarily through its licensing regime.

Ofgem's licence conditions range from the steps a licensee is expected to take before installing a pre-payment meter in case of non-payment, to guaranteed standards of service over final bills and speed of switching. Licensed companies are obliged to work with Ofgem in managing their licence, and Ofgem monitors these companies to ensure they comply with their licence conditions, including obligations related to customer service, environmental performance, and financial stability. Ofgem also has the authority to set price controls for energy companies, including parts of the sector where competition is limited, such as with transmission and distribution. This is done to prevent these companies from making excessive profits and to ensure fair pricing for consumers.

Ofgem also has several enforcement powers to deter bad business practices and, where necessary, identify, investigate and take action to protect the interests of consumers across the market. If licensees breach their licence conditions, competition or consumer protection law, Ofgem has the power to enforce. Currently, Ofgem's enforcement action may include issuing directions, making orders, or infringement decisions<sup>3</sup> to bring an end to a breach; remedy the loss or harm caused by a breach; imposing financial penalties; or obtaining voluntary redress

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<sup>3</sup> Competition cases only



payments. It can also include accepting commitments or undertakings relating to future conduct or arrangements.

However, the evolving complexities of the energy market, combined with the failure of some energy suppliers, have exposed limitations and created grey areas in Ofgem's current regulatory powers and areas of responsibility, as discussed in previous sections of this Call for Evidence. There are also inconsistencies with Ofgem's powers compared to other regulators such as the FCA and CMA, and there are also inconsistencies in how Ofgem's current powers can be applied. For example, some powers Ofgem has under REMIT regulations are not available in the same way under its sectoral powers due to a difference in scope.

This 'Powers' chapter highlights some of the issues, challenges and gaps identified within the sector. In some cases, government has shared early thinking and potential ideas based on lessons and concepts from the sector and other regulators, however this does not necessarily reflect a finalised proposal and we welcome views as part of this Call for Evidence. Government is committed to ensuring that Ofgem has the right tools to prevent poor behaviour in the market and take action where necessary to protect consumers in both the short and long-term, in line with Ofgem's principal objective.

## Better outcomes for consumers and more accountability

In a well functioning competitive market, customers choose a balance of price and service quality that works for them, and this encourages companies to compete on a combination of cost and quality. In energy markets, a combination of factors, such as the level of switching, a narrow focus on price, and difficulty comparing service quality, means that companies do not always have an incentive to focus on service standards. Moreover, in an essential utility such as energy, decent service standards for all must be achieved.

Government wants to ensure that, even within such a system as exists for energy, consumers can expect to receive a higher minimum standard of service and, where this drops, there is the right framework in place for the regulator to take proportionate action to resolve the issue and create an effective deterrent to prevent reoccurrence. This may entail rebalancing the costs and risk within the market, and ensuring there is the appropriate level of accountability to promote a culture of high consumer standards across the whole energy system, including infrastructure players. Government wants Ofgem to promote a consumer-first culture across the whole energy system, including infrastructure players, so that all business models should consider driving better consumer outcomes.

**This 'better outcomes for consumers and more accountability' section therefore seeks views around increasing accountability and consumer standards in the sector.**

## Improving executive accountability and consumer standards

Improving accountability and consumer standards in the sector could potentially include practices from other regulators such as a 'Consumer Duty' and 'Senior Manager Regime'. The Financial Conduct Authority's (FCA) 'Consumer Duty', for example, requires regulated firms to act to deliver good outcomes for retail customers. For the FCA, it's not sufficient to merely demonstrate that the company has the processes and frameworks in place, but whether they're actually effective in delivering good outcomes for customers. Government therefore welcomes views around the applicability of a Consumer Duty to the energy sector, and any other potential

ideas and views to promote a high level of consumer standards. The aim of such measures would be to not only deter irresponsible management practices, but also reinforce consumer confidence in the sector.

As part of Ofgem's licence conditions, licensed suppliers are already required to ensure that each customer is treated fairly as part of their licence conditions, in line with the principles of better regulation which state that regulators should focus on consumer outcomes. However, as detailed in the below 'Investigatory & enforcement powers to protect consumers' subsection, there are some activities in the market which do not require a licence meaning those companies are not subject to the same standards, and there is a potential for this to become more prevalent as new types of technologies and companies enter the market. Similarly, executives – as a body or as individuals – cannot readily be held to account for failures. Past cases have highlighted how senior executives have not been sufficiently incentivised to act responsibly and with the interests of their customers in mind. With the evolution into a larger and more complex energy market, this risk remains, and the impacts could increase.

As with other sections of this Call for Evidence, this is initial thinking and does not necessarily indicate a clear proposal.

**We are seeking views on how Ofgem can ensure consumer standards are better represented – for example with reference to other business models within the sector, such as through potentially adopting a 'consumer duty' and 'Senior Management Regime'**

## Enhanced investigatory & enforcement powers to protect consumers

Ofgem's effectiveness as a regulator hinges on timely, accurate, and comprehensive access to information from energy suppliers, but the current framework poses certain limitations.

Currently, Ofgem's investigative powers are inconsistent across the areas that they regulate and are less expansive than other regulators. For example, under the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013 (as amended) (REMIT) Ofgem have powers to compel individuals to interview but it does not under their sectoral powers.

Similarly, some activities in the energy market do not require a supply (or other) type of licence meaning that Ofgem cannot use the powers described above. For example, installation of solar panels would not, generally, be a licensed activity. For those activities, Ofgem has been designated as an enforcer under Part 8 of the Enterprise Act which means it is empowered to take action to enforce certain consumer protection legislation such as the provisions on unfair terms in consumer contracts and unfair consumer notices of the Consumer Rights Act 2015, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and the Consumer Protection from Unfair Trading Regulations 2008. Ofgem has the power to obtain an enforcement order (similar to an injunction) from the County Court or High Court where the person or company against whom the order is sought carries on a business or has a place of business in England and Wales (or from the Sheriff or Court of Session in Scotland if it carries on a business or has a place of business in Scotland) to prohibit the person/business from carrying on a particular course of conduct. Ofgem may initially be obliged to request an undertaking from the person/business.

However, unlike the Competition and Markets Authority (CMA), Ofgem does not have the new enhanced enforcement powers that were granted as part of the Digital Markets, Competition and Consumers Act 2024 (DMCC Act). These new powers enable the CMA to investigate, determine and take direct enforcement action, such as fixed penalties, to address infringements of consumer protection law and breaches of undertakings.

Creating consistency in powers across the areas Ofgem regulates may be ultimately beneficial to drive improved consumer outcomes. Considering additional powers for the regulator may also be beneficial to understanding a potential breach and testing/corroborating evidence for certain types of investigations.

**We are seeking views on Ofgem having enhanced investigatory powers.**

**We are seeking views on Ofgem being granted enhanced enforcement powers similar to the CMA.**

## Approach to Penalties and Compliance Orders

When imposing a penalty, Ofgem is legally required to ensure it is reasonable in all circumstances of the case<sup>4</sup> meaning Ofgem normally has to conduct a thorough investigation to uncover the facts before it imposes a penalty. This discourages Ofgem from imposing penalties on low-level non-compliance breaches where the expected penalty level and potential compensation does not warrant the cost and level of resource needed to conduct a thorough investigation.

This is further complicated due to investigating and enforcing ultimately presenting an opportunity cost and risk to Ofgem; conducting thorough investigations on smaller cases ultimately takes away from Ofgem's resource and ability to deal with more significant cases.

Additionally, as well as some of the challenges outlined in the above 'enhanced investigatory & enforcement powers to protect consumers' subsection, current statutory deadlines for confirming a provisional order (PO) and imposing a penalty from the time of contravention are short. This leaves Ofgem insufficient time to gather adequate evidence and for the company to review and comment. This all results in a disproportionate level of cost and risk to the regulator, creating unnecessary barriers and challenges, even for straightforward cases where there is a more objective indication of a breach occurring.

On a case-by-case basis the impact of this non-compliance activity is relatively minor but there are instances of companies which conduct repeat, low-level non-compliance activity within the market. These companies capitalise on the disproportionate cost for Ofgem and this ultimately leads to a larger and more widespread negative impact on consumers and the overall standard they expect, as well as impair Ofgem's ability to regulate where it needs to expend additional resources to obtain and assure the data if it needs to do so.

Therefore, Government is considering changing the penalties framework to make it easier for Ofgem to impose lower-level penalties for straightforward or minor cases where there is an objective indication that a breach has occurred.

Government is also considering increasing the statutory deadlines for confirming a provisional order and for imposing a penalty when a provisional or final order has been served. These

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<sup>4</sup> Section 27A of the Electricity Act and Section 30A of the Gas Act.

potential changes would allow Ofgem to conduct a thorough investigation and ensure regulated entities do not avoid responsibility due to the difficulties of running complicated processes within time limits that are not practical for many cases. This could also potentially include changing the process to allow for penalties to be issued without the need of a thorough investigation every time by default; mitigating circumstances would still be considered but this onus would be on businesses to demonstrate as part of an appeals process.

**We are seeking views on whether the scope and scale of Ofgem’s current penalties are set at the right level.**

## Increasing the costs of bad practice

Some business models within the market operate on little to no turnover meaning that even if they commit a breach which is investigated and enforced against, the potential penalty is small to the point of creating an ineffective deterrent. This is due to the current rules that stipulate that Ofgem may only issue a penalty of up to 10% of a company’s turnover. This is also paired with the fact that investigating and enforcing presents its own costs with no guarantee of success as discussed in the earlier sections.

The Government aims to strike a balance between deterring non-compliance and ensuring fines are appropriate, reflect the infringement and exceed the cost of compliance so that compliant companies are not discouraged from entering the market. And, as discussed, government expects that companies can deliver a high minimum standard of service to consumers without it affecting their profitability. Government does not welcome companies whose profitability relies on committing (and getting away with) breaches.

Government would like to move towards a market with healthy competition in which the participants use sustainable practices to win market share. For example, through competing on quality of consumer service and additional benefits, as opposed to predatory pricing which harms consumers and market stability in the long-term as prices rise after companies/competition are priced out of the market even when those companies would otherwise be financially viable.

**We are seeking views on the current system of a maximum fine of 10% and whether it should change?**

## Protecting consumers in extreme scenarios

The energy market, and the role that Ofgem plays within the market, has experienced significant change since Ofgem was first established. This includes the rapid growth of new types of technologies and companies in the market, as well as a growth in the role that the energy market plays in consumers’ day-to-day lives. This sub-section seeks to take account of the lessons of recent years and challenges ahead and seek views on ensuring that the regulator is properly equipped to protect current and future consumers in extreme scenarios.

## Quicker response to emerging issues

Whilst Ofgem has a wide range of powers, as noted, there are still large gaps between other regulators and also inconsistencies in how Ofgem's current powers can be used which limits Ofgem's ability to deliver prompt, effective action, especially as the market grows increasingly complex and new types of technologies and companies enter the market at a faster rate than new regulation can be created to respond.

Ofgem's licence amendment powers (contained in s11A EA89/s23 GA86) provide the means for Ofgem to respond to these new challenges, however any amendments require at least a 28-day consultation and 56-day implementation period, meaning any change will always require excess of 3 months before Ofgem can act. The gas crisis and forced-fitting of PPMs is a clear example where faster action would have been more decisive and beneficial to consumers. In this example, Ofgem urgently agreed and negotiated a voluntary code of practice in order to implement changes, but having the option of 'urgent rule changes' may have facilitated more rapid and decisive action and outcomes for consumers.

However, as noted, there are limitations to this, so:

**We are seeking views around whether this process should change to make it easier for Ofgem to create new rules to respond to emerging challenges**

**We are seeking views on how Ofgem might better respond, or be better equipped to respond, to emerging issues, especially for which there is not already a clear precedent**

## Supplier failure

As mentioned, the collapse of several energy suppliers in 2021-2022 exposed critical shortcomings in the financial resilience measures overseen by Ofgem.

Ofgem's current powers in this space are limited to the licensee and once the licence is revoked (as it is due to insolvency to appoint a Supplier of Last Resort) it cannot take regulatory or enforcement action against the insolvent company. While the regulator has a new financial resilience framework and can step in to manage failures or issue fines after a breach occurs, there are limited incentives for licensees to prioritise compliance at times of financial distress. More proactive measures could prevent collapses before they occur or limit the impact of a collapse on consumers. Ofgem has limited authority to intervene in the relationships between suppliers and third parties, such as parent/group companies or those providing critical services, financial institutions, brokers, and insurers, limiting Ofgem's ability to more effectively manage certain risks associated with financial resilience.

Government will examine whether Ofgem's current powers are sufficient to manage these situations effectively or whether new powers should be created to ensure affected customers receive continuity of service and are not financially disadvantaged as a result of having been supplied by a company that has gone into insolvency.

**We are seeking views on how Ofgem might be better equipped to protect consumer interests in cases of (predicted or actual) supplier insolvency and/or financial distress.**

## Standards and redress

The government wants to see an energy market that delivers better outcomes for consumers. While consumers should have confidence in the level of service they receive in the energy market, it is also important that the appropriate rules and processes are in place to ensure issues are adequately resolved when things go wrong.

Despite some recent improvements with suppliers' customer service ratings<sup>5</sup>, customer satisfaction with the energy sector remains low. Polling shows that the top reasons for consumer dissatisfaction continue to include difficulty contacting suppliers and the time taken to get queries resolved. Satisfaction with the handling of complaints also remains low<sup>6</sup>.

The government welcomes Ofgem's commitments to drive up standards and look at how consumers receive redress through its Consumer Confidence programme<sup>7</sup>, and it is important that the regulator continues work aimed at improving outcomes for consumers.

## Automatic compensation

In its election manifesto, the Government committed to strengthening the regulator and ensuring that consumers receive automatic customer compensation when there is failure. The Guaranteed Standards of Performance (GSoP) provide automatic compensation to gas and electricity consumers if their supplier does not meet certain standards (e.g., billing issues). Compensation is also covered under the Quality of Service Guaranteed Standards (QSG) which cover issues related to Distribution Network Operators and Gas Transporters such as power outages.

The current framework for consumer compensation includes different levels of redress, eligibility criteria and automation across different issues and areas of the energy market. This potentially makes it difficult for consumers to understand their rights when things go wrong and to secure appropriate compensation in some scenarios. Consumers may also receive compensation through raising a complaint with their supplier. Compensation may be offered directly from a supplier after a complaint is raised or the Energy Ombudsman may order a supplier to pay compensation following the Alternative Dispute Resolution process.

The Government recognises there is already ongoing work related to compensation. Ofgem has announced that to reflect inflation it will be increasing the rate of compensation for supplier GSoP's from £30 to £40, which will come into effect on 2 January 2025. Through its Consumer Confidence programme, Ofgem has committed to look at reviewing current compensation arrangements within GSoPs.

The Government also recognises that other sectors have their own approaches and models regarding customer compensation. The Department for Environment, Food and Rural Affairs has recently consulted on changes to the compensation scheme in the water and sewerage

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<sup>5</sup> <https://www.citizensadvice.org.uk/wales/about-us/media-centre/press-releases/sluggish-improvement-in-energy-company-customer-service-according-to/>

<sup>6</sup> <https://www.ofgem.gov.uk/publications/energy-consumer-satisfaction-survey-july-2024>

<sup>7</sup> <https://www.ofgem.gov.uk/publications/consumer-confidence-step-standards>



sectors<sup>8</sup>. In the telecoms sector, there is a voluntary automatic compensation scheme that the main providers are signed up to. The rail sector has the national ‘Delay Repay’ scheme which refunds customers depending on the extent of any delay. The Government is interested in whether there are examples in other sectors that could be applicable to the energy sector.

The Government welcomes initial views and evidence on the extent to which the current compensation framework is fit for purpose, both now and in a future market, and how it could be improved to serve consumers better. This includes considerations around the level of payments to consumers, the scope of current compensation arrangements and the mechanisms for delivering automatic compensation.

**Is the current compensation framework in the energy market fit for purpose to protect consumers and ensure they receive a consistent minimum level of service?**

**Are consumers aware of their rights under the existing compensation framework and are eligible consumers receiving timely, appropriate redress when they do experience poor levels of service?**

**Are there ways in which the current compensation framework could be improved to better serve consumers? For example, are there specific issues or service areas not currently covered by the existing compensation framework where there is evidence of consumer detriment?**

**Are there examples of compensation frameworks in other sectors that are worth consideration in the context of the energy market?**

**How should Ofgem drive energy suppliers to go beyond minimum levels of service and deliver high standards of customer service?**

## Energy Ombudsman

The Energy Ombudsman (EO) is an independent, not-for-profit company appointed by Ofgem as the Alternative Dispute Resolution (ADR) body for retail energy complaints about suppliers. Currently, if a customer is unable to reach a settlement with their supplier within 8 weeks of raising a complaint (or if a supplier notifies a customer that they can do no more before this point) they are able to refer their complaint to the EO.

Households and companies with fewer than 10 employees are already eligible to use the EO’s services to settle disputes with their energy supplier – including issues with billing, customer service, or how a product has been sold by an energy supplier. Government has [announced](#) that, in a significant move to bolster protections for small businesses within the energy sector, it will introduce a new threshold enabling a wider range of non-domestic energy customers to seek redress through the EO. The changes came into effect on 1 December 2024.

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<sup>8</sup> <https://consult.defra.gov.uk/water-affordability-and-consumers/consultation-on-updating-the-guaranteed-standards/consultation/intro/>

Consumers should have confidence that issues will be resolved efficiently when things go wrong. The Government and Ofgem intend to work together to consider the 8-week referral timeframe, as well as identifying ways more generally to drive quicker resolutions when problems occur.

The EO works with suppliers and consumers to collect and review relevant information when dealing with disputes. The EO then has the power to issue decisions which may include suppliers providing compensation, amending customer accounts or it can make wider recommendations aimed at improving practices and preventing issues from recurring. While the EO has powers to issue binding decisions on suppliers it does not have enforcement powers to compel suppliers to implement the remedies contained within their resolutions. Data shows that the EO is able to resolve the majority of the complaints it deals with. However, the Government recognises that there is the possibility of scenarios where the lack of enforcement powers held by the EO may mean that consumers face delays in receiving redress from suppliers or may not receive it at all.

Currently, the EO refers any concerns with specific suppliers not implementing their decisions to Ofgem. The Government is interested in views on the extent to which the EO's current powers and Ofgem's monitoring role are sufficient to enable consumer disputes to be investigated fully with any remedies implemented promptly and in full.

As well as being responsible for appointing the EO, Ofgem is required to review the performance of the EO on a biennial basis to ensure it still meets the approval criteria under which it was appointed<sup>9</sup>. There are different examples of governance models for Ombudsman services in other sectors, such as the Financial Ombudsman which has a statutory basis. The Government welcomes views on whether the current model in the energy sector is the right one for efficiently resolving consumer disputes.

**We are seeking views on whether there are changes that could be made to the model under which Ofgem appoints the Energy Ombudsman, to strengthen the Energy Ombudsman's ability to resolve consumer disputes.**

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<sup>9</sup> <https://www.ofgem.gov.uk/publications/biennial-assessment-ombudsman-services-under-alternative-dispute-resolution-adr-regulations-2021-2023>



# Consultation questions

## Legal Mandate

We are seeking views on what Ofgem's mandate should be.

## Duties

We are seeking views on whether Ofgem's duties should be streamlined, and if they should, views on which goals might be prioritised.

## Transparency and accountability

We are seeking views on making more detailed information available about energy company performance and behaviour, and how this might assist other licensees and consumers.

We are inviting views on Ofgem's annual report and the KPIs it reports against, and how to strengthen Parliamentary scrutiny of Ofgem's performance.

## Skills and capability

We are seeking views on the capabilities Ofgem needs to be an effective regulator in a more digital, fast-moving sector.

## Ofgem's Regulatory Remit

Does Ofgem have the right regulatory remit? Have you observed harms caused by uncertainty over Ofgem's remit, or by gaps in what is currently regulated in the energy sector?

We are seeking views on Ofgem's role in an energy system that is now, in part, driven by strategic planning following the creation of NESO, in particular, how should regulatory strategy be aligned with strategic energy plans.

## Delivering Investment and Innovation in the Transition

We are seeking views on the role Ofgem should play to support growth and the government's industrial strategy.

What can Ofgem do to increase investment and innovation in the sector?

What might Ofgem do to support an environment of falling energy prices?

**What else might Ofgem do differently to support higher growth in the energy sector and wider economy?**

**Are Ofgem's regulatory processes sufficiently fast, effective and user friendly?**

## **Low Carbon Technologies**

**We are seeking views on Ofgem's remit in enforcing consumer law in respect of low carbon technologies, such as heat pumps and solar panels, and what the appropriate boundaries might be.**

## **Better outcomes for consumers and more accountability**

**The 'better outcomes for consumers and more accountability' section therefore seeks views around increasing accountability and consumer standards in the sector.**

## **Improving executive accountability and consumer standards**

**We are seeking views on how Ofgem can ensure consumer standards are better represented – for example with reference to other business models within the sector, such as through potentially adopting a 'consumer duty' and 'Senior Management Regime'**

## **Enhanced investigatory & enforcement powers to protect consumers**

**We are seeking views on Ofgem having enhanced investigatory powers.**

**We are seeking views on Ofgem being granted enhanced enforcement powers similar to the CMA**

## **Approach to Penalties and Compliance Orders**

**We are seeking views on whether the scope and scale of Ofgem's current penalties are set at the right level.**

## **Increasing the costs of bad practice**

**We are seeking views on the current system of a maximum fine of 10% and whether it should change?**

## **Quicker response to emerging issues**

**We are seeking views around whether this process should change to make it easier for Ofgem to create new rules to respond to emerging challenges**

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## **Energy Ombudsman**

**We are seeking views on whether there are changes that could be made to the model under which Ofgem appoints the Energy Ombudsman, to strengthen the Energy Ombudsman's ability to resolve consumer disputes.**

## Next steps

This call for evidence will close ten weeks after launch. Government will consider the responses we receive to this call for evidence to agree what further steps are required to strengthen Ofgem and we will subsequently publish a summary of responses and a report.

# Annex

## Ofgem's duties

Ofgem, the Office of Gas and Electricity Markets, is the non-ministerial government department that supports the Authority. The Authority is established as the independent economic regulator of gas and electricity markets in England, Scotland and Wales under the Utilities Act 2000. We use "Ofgem" in this document as a short-hand way of referring to the Authority as well as Ofgem itself.

Ofgem's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems. The interests of such consumers are their interests taken as a whole, including their interests in the reduction of greenhouse gases and in the security of the supply of gas and electricity to them.

The Authority must carry out its functions in the manner which it considers best calculated to further the principal objective, wherever appropriate by promoting effective competition within the electricity and gas sectors. Before deciding to carry out its functions in a particular manner with a view to promoting competition, the Authority must consider the extent to which the interests of consumers would be protected by that manner of carrying out those functions and whether there is any other manner (whether or not it would promote competition) in which the Authority could carry out those functions which would better protect those interests. The Authority must also, in this context have regard to the need to secure that all reasonable demands for electricity and gas are met; the need to secure that licensees can finance their regulated activities, and the need to contribute to the achievement of sustainable development. Furthermore, it must have regard to the interests of vulnerable individuals, including those who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas and may have regard to other types of vulnerability.

The following is a non-exhaustive summary of Ofgem duties:

Ofgem is required to carry out the functions referred to in the manner which it considers is best calculated to:

promote efficiency and economy on the part of those licensed under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;

protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity; and

In carrying out these functions Ofgem must also have regard to:

the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and

the strategy and policy statement designated by the Secretary of State.

The main duties are referenced in Section 4AA Gas Act 1986 and Section 3A Electricity Act 1989

<https://www.legislation.gov.uk/ukpga/1986/44/section/4AA>

<https://www.legislation.gov.uk/ukpga/1989/29/section/3/enacted>

The Energy Act 2023 provided for the modification of Ofgem's duties, as set out in the Gas Act 1986 and Electricity Act 1989, by including a duty for Ofgem to consider consumers' interests in the Secretary of State's compliance with the net zero targets and five-year carbon budgets provided for in sections 1 and 4(1)(b) of the Climate Change Act 2008.

<https://www.legislation.gov.uk/ukpga/2023/52/section/202>

Government has also added Ofgem to the list of regulators that must comply with the growth duty provided for in the Deregulation Act 2015. This requires Ofgem to have regard to the desirability of promoting economic growth when carrying out its core regulatory functions.

<https://www.legislation.gov.uk/ukpga/2015/20/section/108>

Ofgem has been appointed as the regulator for heat networks in England, Wales and Scotland.

<https://www.legislation.gov.uk/ukpga/2023/52/part/8>

Ofgem's powers to enforce competition law are derived from the Competition Act 1998

<https://www.legislation.gov.uk/ukpga/1998/41/contents>

Ofgem's consumer protection powers are derived the Enterprise Act 2002

<https://www.legislation.gov.uk/ukpga/2002/40/contents>

Ofgem's duties for maintaining a price cap are referenced in the Domestic Gas and Electricity (Tariff Cap) Act 2018

<https://www.legislation.gov.uk/ukpga/2018/21/contents>

This consultation is available from: [www.gov.uk/government/calls-for-evidence/review-of-ofgem-call-for-evidence](https://www.gov.uk/government/calls-for-evidence/review-of-ofgem-call-for-evidence)

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