Back from the *brink?*

How consumers are still reeling from the energy market meltdown

citizens advice

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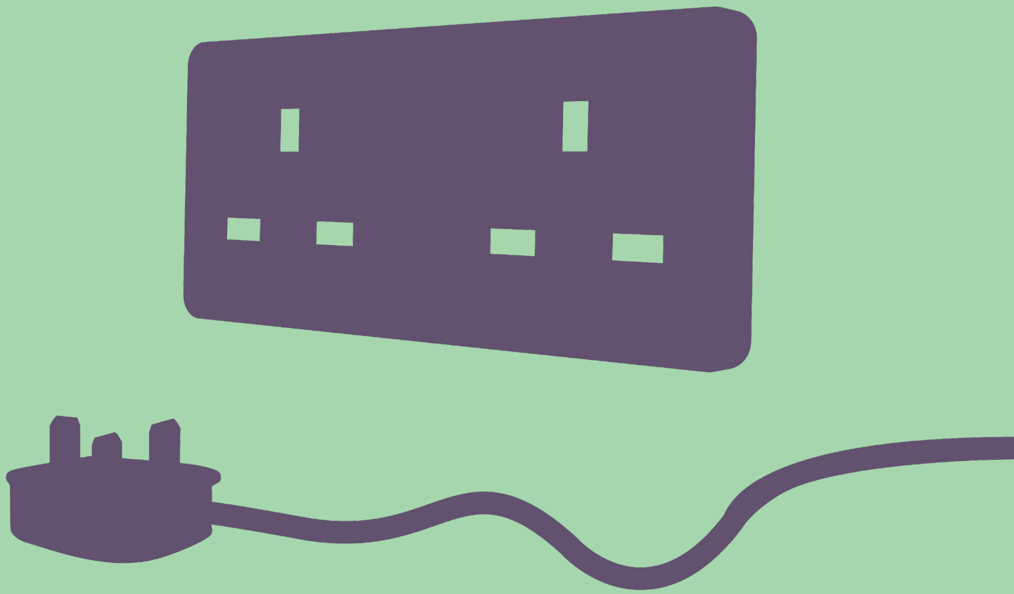


Executive summary

Since the beginning of August 2021, 28 energy suppliers have failed, causing turmoil for over 4 million customers. Our research shows that though the Supplier of Last Resort (SoLR) process worked well for the majority, a significant minority of people continue to face severe disruption.

- Credit refunds remain outstanding months on - with confusion around when they will be paid
- Customers experience aggressive tactics from unregulated debt collection
- Customers often receive inaccurate bills as a result of poor data management pre-failure, but face a lottery as to whether administrators can investigate, often leaving them without redress.
- Unlike energy suppliers, administrators can backbill customers - meaning they can demand payment for unbilled usage dating back over a year.
- Consumers are expected to foot an ever growing bill for the failure of Bulb - currently £70 per person.[1]

There are just 12 weeks before the start of winter. Before the nation needs to switch on their heating, action needs to be taken to ensure that the costs of regulatory failures of the past don't add to the already high burden households are facing.

Supplier failure and Special Administration processes need reform.

The findings in this report show that, despite the progress made by Ofgem, the job to protect consumers is not yet done. The significant harm faced by customers of failed suppliers shows that reforms are both urgent and necessary, and must be in place in case there are further supplier failures.

There needs to be an urgent review to consider how existing insolvency rules interact with SoLR and Special Administration Regime (SAR) processes, and whether administrators have handled failed energy suppliers in the right way.

Ofgem believes that it lacks the powers needed to ensure consumers' interests are prioritised throughout the process.

To close this gap, Government, the Insolvency Service and Ofgem should work together to introduce new and improved protections for consumers, ensuring that the avoidable harms outlined in this report are addressed and not repeated should there be any further supplier failures.

We support the Government in providing Ofgem with more powers to step in when energy suppliers fail and to tackle problems with administrators.

In case you missed it

What we said
In December 2021 Citizens Advice published our report Market Meltdown: How regulatory failures landed us with a multi-billion pound bill.

It was a culmination of years of market monitoring and research, and demonstrated that Ofgem allowed unfit and unsustainable energy companies to trade with little penalty when things went wrong.

What we asked for
We asked Ofgem and the Government to act and fix the problems that led to over 28 suppliers failing in 2021, and to restore consumer confidence in the market.

Specifically, we asked for an independent review of the market turmoil, including into Ofgem's approach to compliance and enforcement. We also recommended that Ofgem introduce a consumer duty, to protect customers from immediate bill hikes resulting from recent supplier failures, and to develop clear strategies for the future of the retail market.

Where are we now?
Ofgem have made significant progress in learning from their mistakes and addressing the causes of so many supplier failures. However, there's more work to be done. Ofgem and Government still need to provide clarity on key areas, including on how to protect customers from the costs of more supplier failures.

This report aims to highlight areas that still need to be addressed, and to show that the risks to consumers still exist.

What's happened since our Market Meltdown report

Dec 2021	Ofgem provides an action plan on supplier financial resilience and take some immediate actions
Feb 2022	Increase to the April price cap announced
Feb 2022	BEIS select committee begins investigation into failures
May 2022	Ofgem publishes a lessons learned report which found that Ofgem's approach to regulation and compliance wasn't good enough, and that customers have paid the price.
May 2022	Price cap reforms and Market Stabilisation Charge (MSC) changes announced
May 2022	Government announces new energy bills support - including a £400 grant for all customers
Jun 2022	Ofgem announces new measures on financial resilience
Jun 2022	National Audit Organisation & BEIS select committee criticise Ofgem's past approach

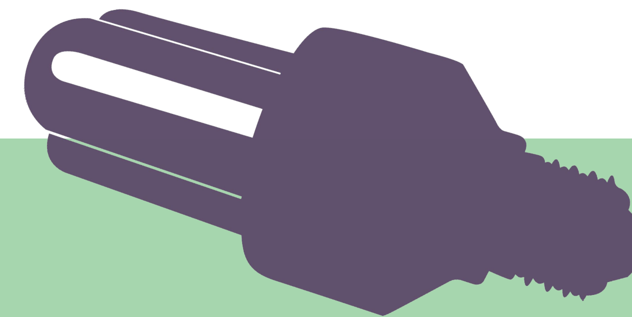
Consumers are still paying the price for energy market turbulence

The cost of energy suppliers failing is paid by all consumers. In our Market Meltdown report, we explained how the failures of suppliers between August and December 2021 would cost each customer around £94.

New evidence shows that the cost of Bulb's failure will be **at least £1.9bn - potentially costing us all an additional £70 each**[2].

With uncertainty about Bulb's sale continuing up until the deadline, Government needs to urgently review how different outcomes of the sale might impact consumers.

Up until now, Government have made costly decisions around managing Bulb - including the choice not to buy energy in advance - meaning taxpayers will have to cover the cost of buying energy at a premium. **Government need to make sure costs don't spiral higher, adding even more onto customer bills.**



Supplier failures since August 2021 will cost £4.6 billion as consumers are on the hook for bailing out Bulb and other energy suppliers.[3]

That could be £164 added onto people's bills.[4]

Consumers are still paying the price for energy market turbulence

In addition to these costs, customers of failed suppliers face further confusion and unregulated debt collection. This is because the SoLR process that governs supplier failures doesn't bind administrators to the same rules that active energy companies have to follow. **Instead, consumers face having their rights ripped away exactly when they need them the most.**

These difficult experiences could have been prevented with market reforms and strict enforcement of the rules. In 2022 Ofgem began to act to protect consumers from facing similar challenges in the future, saying that they would review the SoLR process.[5]

But we're concerned that Ofgem are nearing the limit of what they can do within their existing powers, particularly where customer harms arise from administrator practices.

- Government and Ofgem must act to make sure that, should there be more supplier failures, customers have a more consistent experience, and that they're not exposed to financial difficulties such as delayed credit refunds and inappropriate debt collection activities.
- Government and Ofgem must also act to make sure that upcoming costs from the next wave of SoLR levy claims and the SAR process are not passed onto customers at a time when they can least afford it.

Looking forward: We need the lessons of the failures of regulation to be learned quickly as the energy system puts into place the foundations for a transition to net zero. To ensure this, a new **Consumer Duty** should be enacted, directing firms to prioritise their customers' needs. We also need to see the Government outline a clear vision for the future by publishing their retail strategy.

Progress tracker

Progress since January 2022

- ● Good progress made
- ● Work in progress
- ● Insufficient action/ no progress

Previous recommendation	Status	Update	Next steps
Government should protect consumers from the cost of Bulb's failure	●	The Government has not confirmed whether consumers will have to pick up the tab for Bulb's failure.	Government should announce details of how to protect consumers from this £1.9bn (and rising) cost, particularly while energy prices continue to rise
Government should ensure fair debt collection processes for all energy debts	●	Enduring protection gaps mean that consumers lose their rights when the administrators of energy firms pursue debt	Government should introduce a short term crisis response to ensure the Insolvency Service protects consumers while reform is delivered via legislation.
Government and Ofgem should introduce a consumer duty to ensure high standards in a reformed retail market.	●	Strategy work in the Government and at Ofgem has not been published.	Government should set out their retail market strategy and close protection gaps regarding Third Party Intermediaries. As set out in our report 'Raising the Bar' Ofgem should also introduce a new consumer duty to raise service standards.
Government should protect all consumers from the costs of Supplier of Last Resort	●	The announcement of a £400 grant for all will ensure the first wave of costs of supplier failure are reduced and provide financial support towards surging energy prices.	Government should ensure that people with prepayment meters can access support this winter and ensure that consumers are protected from future supplier failure costs.

Progress tracker

Previous recommendation	Status	Update	Next steps
Independent review of Ofgem to ensure lessons are learned	●	Ofgem published an independent review with further scrutiny by the BEIS Select Committee, National Audit Office and Public Accounts Committee	Ofgem must maintain progress in implementing the identified reforms needed, with a continued focus on protecting consumers through conducting compliance reviews and enforcing its rules.
Ofgem should develop regulations on hedging and capitalisation	●	Ofgem has completed its first round of stress testing, and begun the process of changing rules on capitalisation and the price cap.	Ofgem should continue to develop its proposals on hedging and capitalisation, setting out how it will transition to a more transparent approach to the framework for stress testing in future.
Ofgem should take forward changes to protect credit balances and Renewables Obligation payments	●	Ofgem has now published a consultation on protecting credit and Renewables Obligation (RO) payments, with reforms due by the end of the year.	Ofgem should maintain their focus on implementing these vital changes and ensure they are in place by the end of the year
Government should deliver a level playing field for social costs	●	Reforms to Warm Home Discount	Warm Home Discount reforms will ensure it reaches customers of all suppliers.

How the process is failing consumers

Energy is an essential service that should never be put at risk - even when an energy supplier fails. But our research shows that, while the SoLR process worked for most, a significant minority of customers continue to experience severe disruption and distress months after their supplier left the market.

Much of this disruption occurs because the goal of an insolvency practitioner is to achieve the best possible result for the company's creditors. This means that administrators are sometimes not obligated - or motivated - to act in the customers' best interests. Instead they may:

- Be unrealistic in negotiations where the incoming SoLR supplier is attempting to purchase essential customer data, delaying the process or preventing the incoming supplier from accessing it entirely.
- Be too quick or aggressive in collecting debt owed to them
- Wind the company down without closing outstanding customer service cases. Once wound down, the customer will be unable to access pre-failure billing or metering data that could help them resolve billing disputes.

It is clear that this process is insufficient to deal with the customers of an essential service.

Ofgem, Government and the Insolvency Service need to work together to reform the supplier failure process and to lock in improved consumer protections.

The Supplier of Last Resort process

1. Supplier fails. Ofgem revokes supplier licence
   Consumer protections are removed
2. Ofgem appoints Supplier of Last Resort
3. New supplier negotiates access to customer data with Administrator
4. Final bills are issued by the failed suppliers' administrators
   Debt collection process can start
5. New supplier sets up accounts
6. New supplier refunds credits
7. New supplier issues request to Ofgem to cover their SoLR costs

Customers of failed suppliers are more at risk of aggressive debt collection practices

Debt collection is one of the areas in which customers of failed suppliers experience the most unfair treatment. This is because, in the majority of cases, the administrator buys the debt book of the failed supplier, and is in charge of collecting the money owed. In these cases, customers lose any protections provided by Ofgem. **Where the incoming SoLR supplier takes on the debt book, this results in much better outcomes for customers.**

Process when administrator takes on the debt book

Administrator takes on debit balances

Protections removed

Administrator begins debt collection process for energy used up to 6 years ago

Administrator issues payment demand

If the customer disputes the bill, they must complain to the administrator

The administrator is obliged to investigate a dispute, but may not have access to the information needed to resolve it, or the information they do have is of poor quality. Unlike with active energy suppliers, administrators are not obliged to take these complaints further, and regulatory bodies such as Ofgem and the Energy Ombudsman cannot get involved.

Customer is left without redress

Process when SoLR supplier takes on the debt book

New supplier takes on debt book

Protections maintained

New supplier begins debt collection process for energy used up to 12 months ago

If the customer disputes the bill, then the new supplier can investigate for them as they have all the information they need. Customers can access extra support through the Extra Help Unit or Ombudsman Services: Energy

New supplier arranges affordable repayment plan

Customer continues with new supplier or switches away

So what does this risk look like?

It's not just a loss of consumer protections that leads to aggressive debt collection practices.

Administrators have to prioritise their creditors' interests, meaning they want to collect outstanding energy debts as quickly as possible, often with only a limited a customer service arrangement in place to allow customers to dispute or negotiate their bills.

Customers can complain to the Insolvency Service if they are not happy with how their administrators are treating them, but this process isn't designed with households and microbusiness customers in mind, and can be complex and arduous.

All this means that, **depending on whether the administrator or SoLR supplier takes on the debt, the customer has a vastly different experience.**

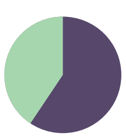
Administrator collects outstanding energy bills

- Demand for immediate repayment in full, or within a short timescale
- No flexibility in payment methods
- Demand for energy bills up to 6 years old

Supplier collects outstanding energy bills

- Right to an affordable repayment plan
- Right to a range of payment methods
- Right to challenge bills over a year old

This is a big problem for customers.



In May 2022, **43%** of contacts to Citizens Advice about supplier failures were related to **administrators pursuing debt.** This is is up from just 10% of cases in November 2021, showing that these issues are becoming more acute over time.

Average debt being chased by administrators is **£370**. Research shows that over 1 in 10 adults have **no savings whatsoever**, while over a quarter have **less than £500 savings,** meaning that many can't afford these unexpected bills - especially at a time of record high energy prices.[6]

Reforms are needed and the **Energy Security Bill** or the **Draft Audit Bill** are an opportunity to solve this protection gap.

However, ahead of this winter the Government must reach a temporary agreement with the Insolvency Service to prevent any further consumers from facing similar difficulties.

Our evidence shows that customers who have been through a SoLR process are more likely to be dissatisfied with:

- Their new supplier's customer service
- The accuracy of their bill
- The switching process[7]

These customer stories show how their supplier failing has caused problems that are extremely difficult to solve.

Aliyah* was with Omni Energy, but just before their failure **lost her key card** and was supplied with a new one. However, the new key doesn't work, and she **can't get through to the new supplier to get another**, and is now off-supply.

Michael* was owed nearly £1000 in credit from his failed supplier. He's been trying for months to contact his SoLR supplier to confirm when the credit will be refunded and is still waiting for an answer.

Raphael* was switched to British Gas after his supplier failed, but **he has had duplicate payments taken**. He's tried to contact the suppliers, and has raised four complaints - the first was over four months ago - **but has had no response**.

Keely* was with Avro Energy, and had always paid her bills on time, and wasn't aware that she was in any debt. **However, she's received a letter from a debt collection agency saying that she owes nearly £800.** According to the letter, the debt goes all the way back to 2020.

Under normal supplier rules, as Keely hadn't been billed for her usage over a year ago, she wouldn't have to pay for it under the 'backbilling' rules.

However, administrators and debt collectors can demand payments that go back 6 years, meaning **many customers of failed suppliers are getting unexpected demands**.

What changes are still needed?

Consumers need to be protected from the fallout of failures

Government should ensure that the costs of Bulb’s failure are covered by the Treasury, and that they are not directly passed onto the customer.

Government, Ofgem and the Insolvency Service should work together to introduce new and improved protections for consumers, ensuring that the avoidable harms outlined in this report are addressed before future supplier failures occur.

Government and Ofgem must make sure that existing energy bill support reaches everyone, including customers on legacy prepayment meters or people who pay energy bills via their rent.

Government and Ofgem should also continue to assess whether more financial support will be needed as energy prices remain at record high levels.

Events of the past year have shattered consumer trust, and Ofgem needs to act now to repair it. A new retail market needs to show it can support a transition to net zero, while maintaining the highest standards. Ofgem needs to implement a consumer duty to ensure companies achieve good outcomes for consumers.

Rebuilding a market that works for consumers

Ofgem must continue to make progress on:

- Escalation processes to enable supply licence breaches to be identified and tackled more quickly
- Enforcement against rule breaking
- Providing appropriate resources to achieve these outcomes

References

1. The potential Bulb costs to consumers is the NAO estimate (£1.9bn) divided by the latest ONS estimate for the number of households in England, Wales and Scotland (27.34m) is approximately £70. The costs to run Bulb Energy in 2022/2023 may go up or down depending on the wholesale price of energy and the length of time Bulb Energy is in special administration. The final costs of taking Bulb into special administration, and therefore the final costs to customers, will not be known until it is sold or wound up, because the costs incurred could be offset by any sale proceeds it is able to obtain.
2. *Ibid*
3. This is the sum of the cost of running Bulb in the Special Administration Regime (SAR) in 2021-22 (£0.9bn), the budgeted cost in 2022-23 (£1bn) and the estimated Supplier of Last Resort (SoLR) costs (£2.7bn) from: (p4) NAO, The energy supplier market
4. The SOLR costs to consumers is the NAO estimate (£1.9bn) divided by the latest ONS estimate for the number of households in England, Wales and Scotland (27.34m) - approximately £70. The cost to consumer of the SoLR levy is £94 - BFY Group, on behalf of Citizens Advice, December 2021. £164 is the sum of both costs.
5. Ofgem Consultation on Last Resort Supply Claims and Ofgem Supplier Resilience Measures
6. This analysis was based on a sample of Citizens Advice consumer service cases coded as 'Failed Supplier - Administrator/debt issue' from September 2021 to May 2022. A sample of 276 cases was taken, of which 87 cases contained the value of the debt owed. The median debt value was £370.'
7. Consumer Perceptions of the Energy Market Q1 22 (forthcoming 13th July)

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