



3rd Floor North
200 Aldersgate Street
London EC1A 4HD
Tel: 03000 231 231
Citizensadvice.org.uk

09 November 2021

Citizens Advice welcomes the opportunity to respond to the consultation on addressing supplier payment default under the Renewables Obligation (RO). Citizens Advice provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. We are the statutory representative for domestic and microbusiness energy consumers across Great Britain.

In 2019 we published research on the implications for consumers and the wider industry of supplier exit and the ensuing costs, particularly in relation to the RO.¹ Our analysis put the cost at December 2019² at £97mn in unmet RO costs to be mutualised across the market, even factoring in unpaid RO payments reclaimed from administrators. Supplier exits result in financial detriment as well as hassle and stress for consumers whose energy supply company fails, and higher costs socialised among all consumers. Historically, the largest costs have come from RO mutualisation, placing additional financial strain on energy suppliers, and resulting ultimately in higher costs for consumers.

We have previously advocated for a move to quarterly payments to minimise the size of outstanding RO payments failing suppliers are able to leave behind. In January of this year, we agreed with the BEIS proposals to change the mutualisation arrangements, increasing the threshold to 1% of scheme size, but we also reiterated our call for more frequent RO payments by suppliers.³ In that context, we strongly support the overall intent of the consultation to move to quarterly payments, and in particular option 1C, which puts more frequent payment on a

¹ [Picking up the Pieces](#) (2019) Citizens Advice

² [Picking up the pieces - updated analysis](#) (2019) Citizens Advice

³ [Citizens Advice response to BEIS regarding proposed changes to mutualisation arrangements under the Renewables Obligation scheme](#) (2021) Citizens Advice

Patron HRH The Princess Royal Chief Executive Dame Clare Moriarty

Citizens Advice is an operating name of the National Association of Citizens Advice Bureaux.

Charity registration number 279057. VAT number 726 0202 76. Company limited by guarantee. Registered number 1436945.

England registered office: 3rd Floor North, 200 Aldersgate Street, London EC1A 4HD.



legislative footing and removes the late payments window, but recognises the need for some flexibility given the identified challenges of seasonality, ROC shortages and contractual issues.

We would also emphasise that current circumstances, with a high volume of suppliers exiting the market, only reinforces the case for reform. Ofgem announced on 3 November that there was a combined shortfall of over £276mn in the England and Wales, Scotland and Northern Ireland buy-out funds due to 37 suppliers not meeting their total obligation.⁴ External estimates⁵ from Cornwall Insight have also already projected a potential shortfall in the 2021-22 compliance period (CP20), with the shortfall already predicted to be over £80mn, potentially triggering mutualisation for the fifth year in a row. The failure to act more quickly to address the inherent risks in the current scheme design has sadly contributed to the development of unsustainable business models and will mean that consumers will pay a higher cost as a result.

With significant parts of the consultation addressing those obligated under the scheme, our comments are focused on those questions related to the policy implications of the proposals and their subsequent consumer impacts. This response is entirely non-confidential.

Yours faithfully,

Tom Crisp

Senior Policy Researcher

4. How, and to what extent, might more frequent/earlier settlement impact competition in the supply sector?

We recognise and broadly agree with the associated evaluation by Cornwall Insight that in terms of the impact of more frequent/earlier settlement, there could be challenges to suppliers with high proportions of wind or solar ROCs in their portfolios, who could see periods of significant surplus and shortage of ROCs compared to quarterly obligation levels.

⁴ [Renewables Obligation: ROCs presented and Redistribution of Buy-Out Fund 2020-21](#) (2021) Ofgem

⁵ [Supplier exits predicted to trigger Renewable Obligation mutualisation](#) (2021) Cornwall Insight



The fact that only ~5-15% of ROCs are reportedly freely available and traded outside of Power Purchase Agreements also highlights the potential challenge a supplier could face that wishes to meet their new quarterly obligation through buying and redeeming ROCs in the competitive market, rather than taking the buy-out option.

However, the consultation puts forward mitigation such as letters of credit in option 1C which would allow some suppliers flexibility in how they met their obligations.

More broadly, the need to make more frequent payments may challenge some new entrant suppliers, who under current arrangements may plan for rapid expansion, customer acquisition and cash flow later in a compliance period to meet their accrued obligation. However, the negative impacts of the costs of suppliers who have not set aside ROCs or cash to utilise the buy-out and have exited the market in our view outweigh any potential disadvantage from a theoretical higher barrier to market entry. We note that other schemes introduced since 2010 have had much more frequent payment schedules - including the Contracts for Difference, the Capacity Market and the Feed-In Tariff - and that the number of suppliers in the market increased substantially after these schemes began.

8. Under the Option 1c proposal, suppliers would be given the option of settling their Q1 – Q3 quarterly obligations with a standby letter of credit (LoC), conditional on them substituting it with ROCs or buy-out payments ahead of the Q4 settlement deadline. Is a LoC the most appropriate alternative to exchangeable buy-out payments, or should other measures be considered? Does a LoC offer any benefits over exchangeable buy-out payments?

We see the value, based on the information provided, in the added flexibility letters of credit (LoC) provide in enabling suppliers to meet their Q1 – Q3 obligations with a LoC, conditional on them substituting any LoCs with ROCs or buy-out payments on or before the Q4 settlement deadline.



We would highlight however, that the availability of LoCs to smaller suppliers is likely to be limited, with the potential for prohibitive costs, or exclusion from access to LoCs all together a realistic prospect. In that context, consideration of blending option 1C with some elements of option 2 that would allow smaller suppliers to access some form of flexibility in how they discharge their obligation could be desirable.

We agree that further consideration needs to be given to how these arrangements might work in practice, both for LoCs in particular and more generally in terms of flexibility within the scheme.

9. Do you agree with our assessment that a contract for the supply of ROCs does not offer sufficient assurance that a supplier's accrued obligation will be met in the event it exits the market?

We agree that this option would increase the risk of shortfalls in the event of a supplier failure, and should not be pursued.

10. Do you agree with our assessment that the introduction of sub-100% compliance at the quarterly deadlines to accommodate shortages in the availability of ROCs would be an inappropriate course of action?

We agree that this option would increase the risk of shortfalls in the event of a supplier failure, and should not be pursued.

11. If one of the Option 1 proposals were to be introduced, how much notice should be given to participants ahead of its introduction?

Given the size of the projected shortfalls under current and future years of the scheme, we would urge that the proposal be implemented as quickly as possible, recognising the limitations of the need for legislative time for option 1, and the likely practical need for any new policy to start in a new compliance period.



12. Should supplier payment default under the RO be addressed via the legislation, the electricity supply licence, or neither? Please explain your answer.

We recognise the implementation challenges identified in the consultation, particularly that Ofgem's licence-based approach applies only to Great Britain, while the RO legislation applies only to England and Wales.

As an overall point, we would argue that payment default under the RO should preferably be addressed through legislative change rather than solely regulatory intervention. Ofgem's existing toolkit of regulatory action has proven insufficient over recent years in averting supplier default under the RO, with RO Provisional Orders and Final Orders preceding supplier failure often only by a matter of weeks and the wider industry and ultimately consumers bearing the costs. Its compliance and enforcement activity has also often been protracted, and there can be supplier conduct issues and information asymmetries that make this more challenging.

For example, at time of writing, Ofgem's list of Final Orders for suppliers not paying or providing adequate assurances that they will make their Renewables Obligation payments by the late payment deadline of 31 October 2021, published on 29 October, includes three suppliers that have subsequently failed.

Ofgem should make stronger use of its powers - including the new Financial Responsibility Principle - to temporarily limit some of the risk, while the necessary legislative changes are made to permanently reduce the risks inherent in the current scheme design.

20. Do you agree or disagree that supplier payment default under the RO is a matter that warrants action beyond the recent steps that have been taken to increase the mutualisation threshold, and Ofgem's supply licence reforms? Please explain your reasoning.



We strongly agree that supplier payment failure under the RO warrants swift action beyond the changes to the mutualisation threshold and Ofgem's supply licence reforms.

This was our position in January 2021 when the mutualisation threshold reforms were proposed, and the issue has only become more pressing given wider market turbulence and the size of unmet obligations in the interim, with Ofgem announcing on 3 November that there was a combined shortfall of over £276mn in the England and Wales, Scotland and Northern Ireland buy-out funds due to 37 suppliers not meeting their total obligation.

Looking forward, the scheme still has six years until the intended move to Fixed Price Certificates, with final payments under the scheme made in the late 2030s. The risk of further mutualisations in this time period means it is prudent to reform the scheme.

Ofgem's recent open letter⁶ to energy suppliers, indicating a move to an "enhanced approach to monitoring, compliance and enforcement of licence conditions to ensure energy suppliers pursue a sustainable business model" also seems to implicitly recognise that its recent supply licence reforms may already need to be broadened in scope, with references to amending and/or introducing new licence conditions.

21. What would be the costs and benefits associated with further action aimed at addressing supplier payment default under the RO?

As outlined in responses to earlier questions (particularly Q4, Q12 and Q20), we believe that the substantial costs associated with supplier failure and subsequent failure to meet RO payments, costs which ultimately fall on the wider market, causing uncertainty in cost forecasting for suppliers and ultimately costs being passed through to consumers outweigh prospective costs from a higher administrative burden or prospective barriers to entry.

We also believe there are wider behavioural and cultural benefits from reforming the scheme to reduce supplier default under the RO. Suppliers not meeting their RO payments has gone from a niche industry issue covered in trade press to an event that is widely reported on by mainstream

⁶ [Open letter to energy suppliers](#) (2021) Ofgem



media⁷. The ingrained perception that suppliers are not meeting their obligations or paying their fair share of renewables costs could damage consumer trust in the market as a whole and in the transition to net zero. By contrast, more frequent payments and suppliers subsequently meeting their obligations could help build trust and promote more widespread responsible behaviour in the market.

24. The territorial extent of this consultation is England and Wales (i.e. it relates to matters contained within the RO only). What impacts do you foresee on participants in the interlinked Scotland and Northern Ireland schemes (i.e. the ROS and NIRO) if any of the Option 1 or Option 2 proposals were to be implemented through the RO only?

While operated independently, there could be value in aligning the approaches of the ROS and NIRO, and we would welcome engagement by BEIS with the Scottish Government and Northern Ireland Executive to further explore the implications of the proposed policy interventions.

25. What are your initial views on the introduction of the fixed price certificate based scheme that was envisaged in 2011 in terms of addressing supplier payment default?

Given the identified benefits in the original 2011 technical annex of stability in prices, a simple transition and simpler administrative burden for generators, the benefits of moving to a Fixed Price Certificate (FPC) scheme do, in our view, merit being explored in the longer term. We will consider these impacts in response to the forthcoming response to the call for evidence.

However, we think this is unlikely to be a suitable vehicle to solve the urgent issue of supplier default in a timely fashion. We note that under the intended timeline FPCs will be introduced in 2027, and given experience of previous energy scheme changes this could further slip.

⁷ [Ofgem could rip up licences of seven energy suppliers as payment deadline looms](#) (2021) Evening Standard