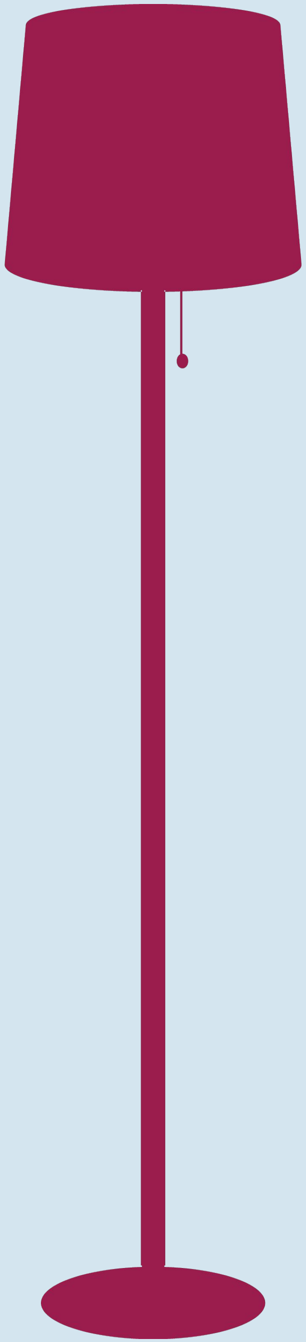
Picking up the Pieces

A review of the consumer impact of recent energy supplier failures

citizens advice

June 2019

Contents



Background

Since January 2018 ten domestic suppliers have failed, affecting around a million consumers[1]. The failures follow rapid growth in the market, from 12 suppliers in 2010, to 70 by 2018.

Why did so many suppliers fail?

The companies blamed a range of factors for their failure, including rising wholesale prices and the price cap. But these companies also had consistently poor service, grew too quickly and were often pricing at unrealistic levels.

Many of these suppliers were simply unprepared to operate in the market and provide acceptable service. The energy regulator Ofgem took enforcement action against 4 of them, and 2 had such bad service it banned them from taking on new customers (using a Provisional Order).

We've been calling for tougher rules for suppliers since 2013 - and last year Ofgem, launched a licensing review to consider the rules for supplier entry, exit and ongoing monitoring.

What happened to customers?

Ofgem found a new supplier for customers in a matter of days. Its process ensures continued supply and protects customer credit.

Despite the process generally working well, our research shows there are key protection gaps for customers in debt. Also, the cost of supplier failures is shared across all consumers. Our analysis shows this could reach £172m. The government and Ofgem need to act to protect all consumers and reduce the cost of failures.

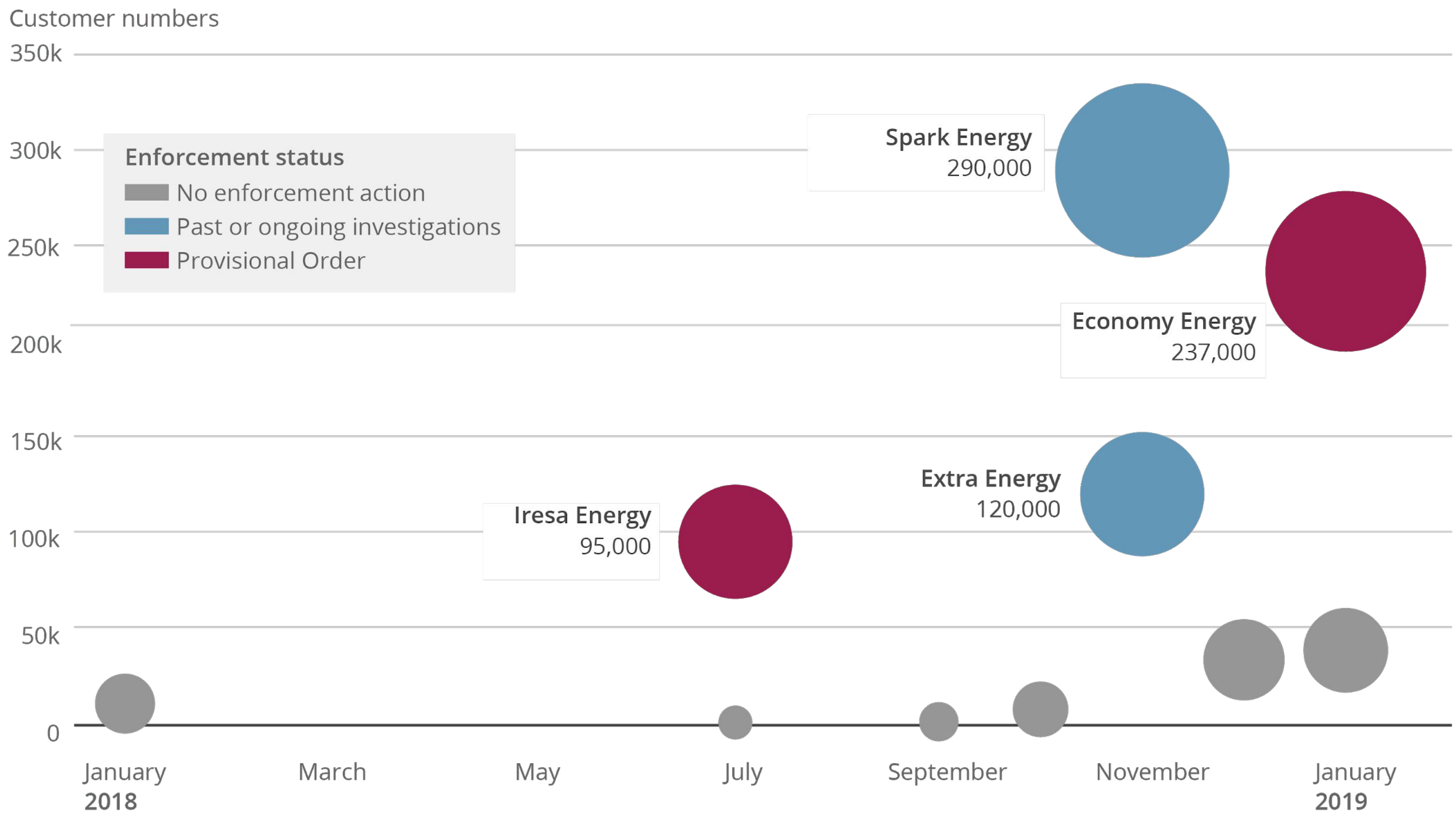
£172m in estimated costs to consumers of supplier failures

6 failed suppliers hadn't paid for the Renewables Obligation

All failed suppliers were offering tariffs ranging from £35 - £220 cheaper than the market average.[2]

Customers in debt who contacted us owed an average of £250 to administrators

Supplier failures since the start of 2018



What happens when a supplier fails?

In a well-run market, we'd expect companies to fail from time to time. But we think that lax rules in the energy market have contributed to the recent spate of supplier failures.

It's preferable for another supplier to buy a failing company. This means less hassle for customers and all protections are maintained. But this isn't always possible.

Supplier of Last Resort

Ofgem's Supplier of Last Resort (SoLR) process[3] appoints a new supplier for customers to ensure that they continue to receive an energy supply. The old supplier is taken over by administrators, whose duty is to maximise returns for the firm's creditors.

Other energy suppliers bid to take on the customers from the failed supplier. Ofgem then decides which one to choose based on factors including customer service levels at the new supplier and minimising costs. If no suppliers volunteer for the role, Ofgem can appoint a supplier.

Energy Supply Company Administration

If a large supplier fails, the SoLR process is not practical and there could be risks of significant market disruption. Instead, Ofgem and government can use the Energy Supply Company Administration (ESCA) process.[4] This appoints a special administrator, which has to consider consumer interests and follow Ofgem rules while keeping the company running with government funding.

What about consumers' money?

Credit

Ofgem operates the Safety Net, which protects domestic consumer credit balances. Once the administrator has worked out a final position for the failed supplier, the new supplier will refund any outstanding balances.

Ofgem recently strengthened this protection, to make sure that any credit balances for customers that had left the failed supplier are also protected.

The Safety Net does not cover microbusiness customers - although, in a recent failure affecting these customers, their credit was protected voluntarily. We think that microbusinesses need stronger protections and that their credit should be protected.

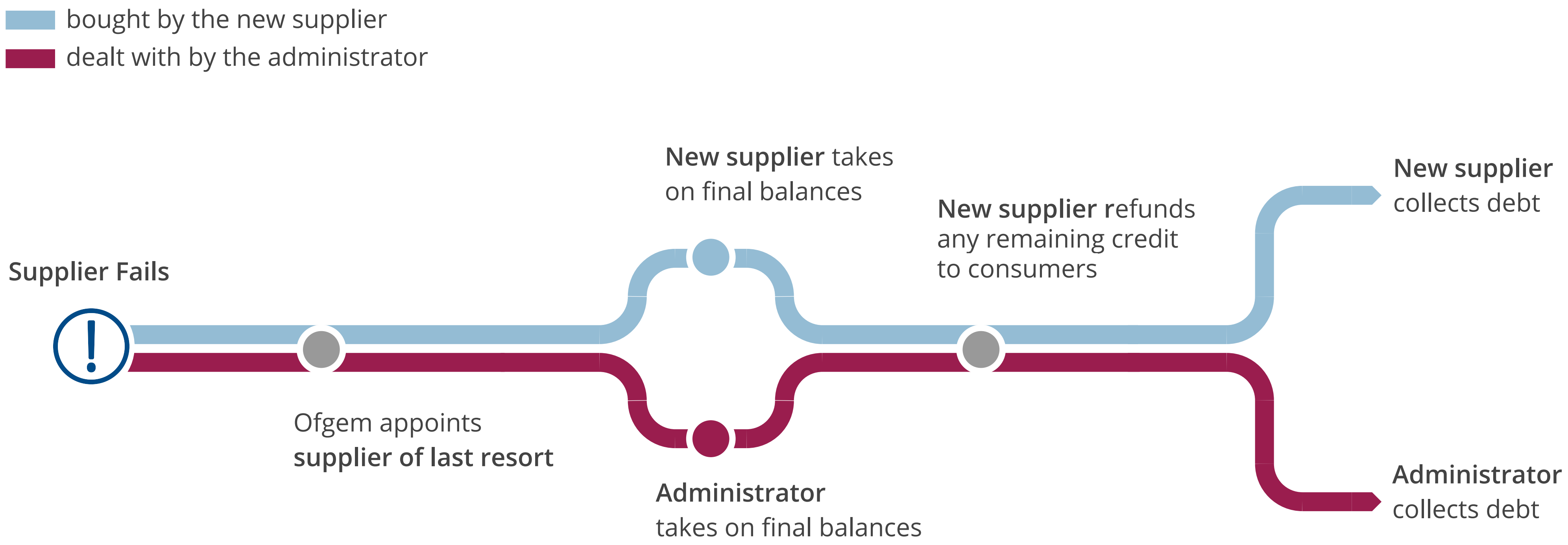
Debt

The cost of any energy used by the customer up to the point when the old supplier failed will need to be paid to the administrator. If the customer already owed money to the failed supplier, this will also need to be paid back to the administrator.

In some cases the new supplier has chosen to 'buy' these debts from the administrator, so they will collect these instead. There are very different protections for customers depending on which of these approaches is taken.

The Supplier of Last Resort process

The process for returning credit to domestic customers is the same for all Supplier of Last Resort events. But the way debt is dealt with depends on which route the process takes. The path is different where consumer debt is:



What this means for consumers

Where the supplier holds the debt

Debt collection is based on supplier licence rules.

- If the failed supplier was in error, debts over 12 months cannot be collected
- Alternative payment methods can be used to repay debt (e.g. third party deductions or prepayment meters)
- Affordable payment plans must be offered
- The new supplier is the single contact for all debt and credit balances.

Where the administrator holds the debt

No protection under the supply licence.

- The administrator can claim back debts that are up to 6 years old.
- They do not offer alternative payment methods.
- Debts need to be repaid in around 3 months
- The consumer might be in contact with both the new supplier and the administrator, causing confusion

Illustrative customer journeys

Sally owed £300 to her supplier when they failed

The new supplier took on the outstanding debts

They checked how much Sally could afford to pay, and offered an affordable repayment plan of £20 a month to finish off paying the outstanding balance

They also discuss with her whether a prepayment meter would be suitable as a way to better manage her debt

Pablo owed £300 to his supplier when they failed

The debt moved to the administrator

They have sent Pablo debt collection letters threatening legal action. They have also billed for energy going back multiple years, increasing the final bill to £500.

After he tells the administrator he can’t pay, they offer Pablo 3 months to pay the full amount. Pablo still can't afford this.

The impact of debt and other issues

Based on the average incidence of debt, our conservative estimate is that **more than 32,000 people** have been affected by existing debt issues following the failure of a supplier.[5]

But many more people are likely to be affected. Consumers who pay quarterly and were up to date on their bills would still owe some money to the administrator for usage up to the time the company failed. It's likely some direct debit customers could owe money as well, especially if it wasn't set at the right level to cover their usage.

Administrators often ask for payments from customers of the failed supplier as quickly as possible, often with only up to 3 months allowed for payment. In contrast, a Big 6 energy supplier allows an average of 3 years to repay a debt.[6]

1,101

Our consumer service, which provides advice on consumer issues, has received **over 1,000 cases** related to debt from consumers with failed suppliers since January 2018.

£251

Large payments towards debt are often demanded by administrators. The median debt amount reported by consumers was **£251** (based on a sample of consumer service cases).[7]

Administrators often ignore existing payment plans

A consumer was paying £25 per month to repay a debt of £1,000 to her supplier. Despite keeping up with the payments, she received a 'final demand' letter for the remaining balance in full. It wasn't made clear to her that her supplier had failed.

The administrator could do this because the normal billing rules in the supply licence conditions don't apply to them.

Billing mistakes become the consumer's responsibility

The consumer's direct debit payments weren't being taken by his supplier. He told his supplier but the problem was not fixed for 18 months, at which point the consumer's account was £2,000 in arrears. The supplier then failed.

The administrators didn't take into account that the arrears had been caused by billing mistakes made by the failed supplier and they threatened bailiff action.

Consumers don't understand how their bill was calculated

The consumer received a text with no company name on it saying she owed £140. This didn't include a breakdown of what the charges were for.

Messages like this can understandably look like scams to consumers. The consumer tried to contact the failed supplier and the new supplier but couldn't get through.

Even though credit is protected, failures can still cause harm to consumers

The process can cause distress for consumers

An elderly consumer had agreed to pay £10 per month towards their debt, following a decision from the Energy Ombudsman.

After their supplier failed, the administrators requested the full amount of nearly £350, with threats of bailiffs. The consumer didn't understand what had happened and the situation caused distress.

Consumers often wait a long time for refunds if their supplier owed them money

When a consumer switched supplier, they were in credit with their previous supplier. They didn't receive a refund despite chasing them for it. The supplier then failed in January 2019.

The consumer called us 3 months later because they still hadn't received the refund. All they could do was wait until their account was transferred to the new supplier.

It's often not clear where responsibilities lie

A letter was sent to a consumer stating a payment was outstanding to their failed supplier. The consumer left this supplier last year and attempted to contact them several times but couldn't get through. The consumer has been unable to find out further information about the overdue payment.

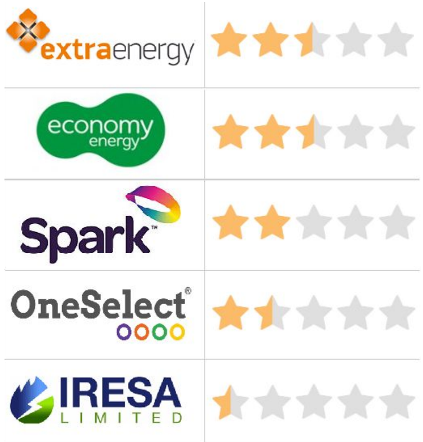
Consumers on prepayment meters can face additional risks during the SoLR process

A customer topped up their prepayment meter by £10 but there was an error message and their account wasn't credited. The customer struggled to get in touch with their failed supplier and this was made more stressful as their meter was running out of credit.

In our experience these issues can be mitigated if the new supplier proactively supports customers of the failed supplier and creates a cohesive plan with the administrator of the failed supplier to assist consumers who are in difficulty. Our full recommendations are in our Supplier of Last Resort Good Practice Guide.

The impact of poor service

All the suppliers that failed performed worse than average in our customer service star rating.



This rates supplier performance across 5 key measures:

- Complaints
- Billing
- Customer service
- Switching
- Customer guarantees

We've analysed the failed suppliers' performance in relation to complaints, billing and call centre wait times. This reveals that problems in these areas directly lead to ongoing problems after a company fails.

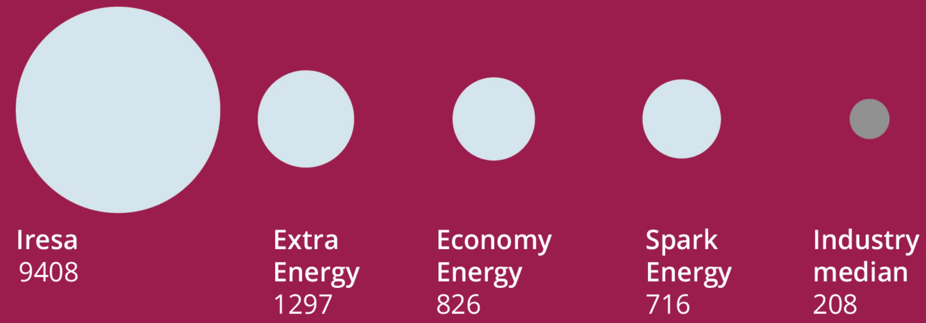
It doesn't have to be this way. Smaller and newer suppliers can offer a great service - in fact they make up most of the top ten suppliers in our rating. And suppliers who perform badly in the rating can go on to improve over time.

But some companies are clearly failing. Ofgem is considering tougher ongoing requirements for suppliers. It's vital that these are implemented to prevent service problems and minimise the harm if suppliers fail.

Complaints

Our rating measures third party complaints to our consumer service, Extra Help Unit and Energy Ombudsman.

Failed suppliers generally performed poorly on complaints. For example, before their failure, Iresa performed around 45 times worse than the median supplier.[8]



Complaints per 100,000 customers in Q1 2018

Unresolved complaints leave a lot of leftover problems when suppliers fail. Some ongoing complaints will need to be looked at by the new supplier, such as metering issues. In some cases the new supplier won't have access to the old supplier's records, and customers have to restart the process of complaining to the supplier.

Other issues may need to be looked at by the administrator, for example if there are disputes about old bills. This can directly lead to debt issues or lengthy waits for credit refunds after the supplier fails.

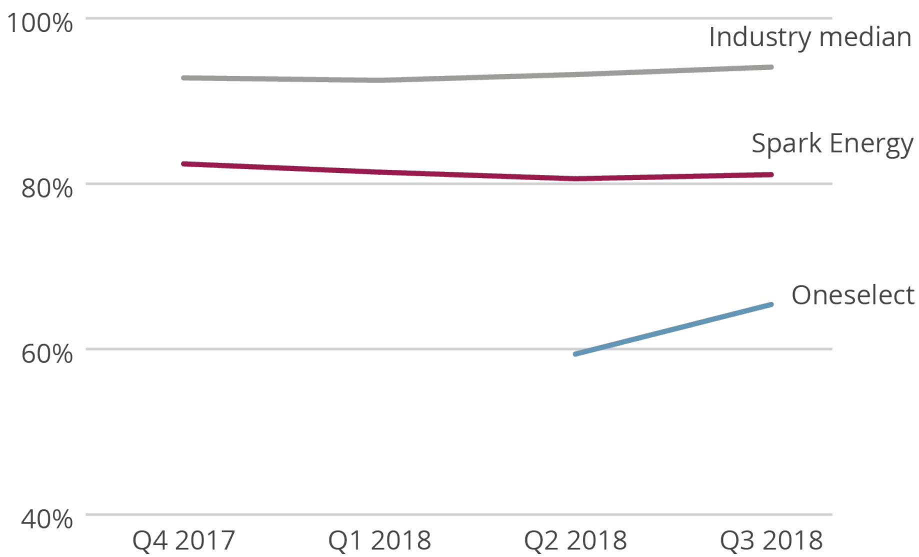
Generally the Energy Ombudsman is not able to continue looking at cases for the failed supplier. This means that consumers lose the opportunity to get redress.

Billing issues

Ofgem rules say energy customers should get a bill based on a meter reading at least once a year. And suppliers can't charge for energy used more than a year ago unless the customer has prevented the company from producing an accurate bill, for example by refusing to let a meter reader into their home.

Our rating includes a measure of how many customers get accurate bills from their supplier at least once a year. Some failed suppliers scored very poorly in this area.

Customers getting an accurate bill once a year



Inaccurate bills can directly lead to debt problems after the supplier fails, if a consumer's payments haven't been covering their usage. Our consumer service recorded a high volume of cases on debt and debt recovery practices for these suppliers after the companies failed.

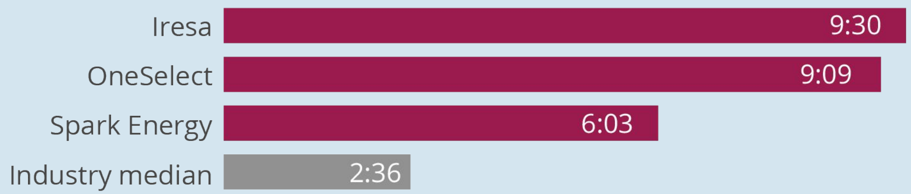
Call waiting times

Our rating also measures how easy it is to get in touch with their supplier, based on call centre wait time.

Although digital communications are increasingly popular with consumers, our data shows that telephone is still used for almost 80% of contacts to energy suppliers. And this channel can be particularly important for consumers in vulnerable circumstances.[9]

Many failed suppliers recorded higher than average call centre wait times in the period before they failed.

Average call waiting times prior to supplier failures.[10]
In minutes and seconds



Long wait times can make it difficult for consumers to get through to suppliers to resolve problems, make payments or give meter readings.

Ofgem has recognised the need for calls to be answered promptly. When it banned Iresa and Economy Energy from taking on new customers, it required them to achieve an average 5 minute wait time before the ban would be lifted.[11]

Suppliers with long wait times had a number of unresolved issues when they failed, which had to be dealt with by the administrator and the new supplier.

Who pays for supplier failures?

Energy suppliers pay for everything from new renewable generation to the pipes and wires that carry our energy. However, when suppliers fail, it is **everyone else** who has to pick up the bill.

Renewables Obligation

The Renewables Obligation (RO) supports large-scale renewable generation deployment. When not enough suppliers pay enough into the scheme to meet their annual bill in a particular year, a process called "mutualisation" is triggered. All the other suppliers (including non-domestic and industrial suppliers) have to pay in to meet the obligations of suppliers that didn't pay, including failed suppliers. This has so far been the **biggest cost** of supplier failure.

Credit balance safety net

When a supplier fails, the new supplier appointed to take on its customers can apply to use an industry levy to recover certain costs like credit balances. Ofgem looks more favourably on applicants who don't use the levy, but it has been used several times, including for Iresa. Distribution charges are used to recoup the cost of the levy, meaning **everyone pays**.

Feed-in Tariffs

A government scheme to support small-scale renewables, feed-in tariff schemes work similar to the RO in that, if suppliers fail and don't meet their obligations, the **costs are met by other suppliers**. But unlike the RO, scheme costs are substantially smaller and suppliers are billed quarterly, meaning bigger bills can't mount up.

Network costs

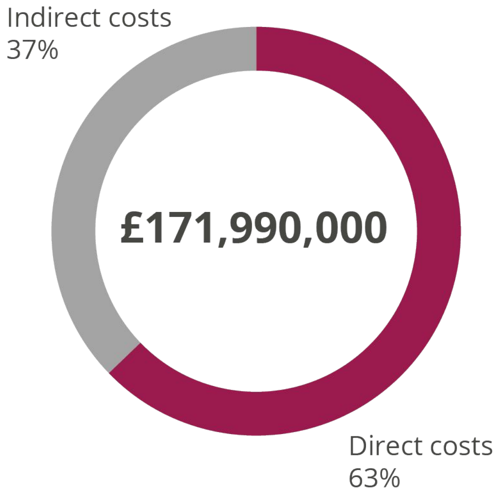
Paying for gas and electricity infrastructure makes up 25% of a typical household bill. So far networks have had to apply to administrators to recover unpaid charges. However, a recent regulatory change means local electricity grids will be able to directly pass the cost of bad debts **from failed suppliers onto consumers**.[16]

Other costs

The costs of supplier failure extend out far more widely than these main examples. Meter companies, code governance bodies, wholesale energy providers and the smart meter campaign - all have been **left out of pocket**. These costs are likely to be passed through to consumers.

Costs of recent failures

Breakdown of total costs



Breakdown of direct costs reported by Ofgem

- Direct costs are defined as money owed under Ofgem processes based on Ofgem data for outstanding amounts for Renewables Obligation, Feed in Tariff and SoLR Levy in 2019.[12]
- Indirect costs are costs from our analysis of administrator reports of outstanding energy industry service costs, such as network charges and metering services.

Some costs from supplier failures are collected from consumer bills 'directly', through higher distribution charges. Independent estimates from the consultancy Cornwall Insight have estimated the **total cost of the RO, FiT and SoLR levy at £120 million**.[15] This includes a projection of unpaid Renewables Obligation costs for the current financial year that are yet to be finalised.

The administrator reports and data published by Ofgem so far show RO to be the largest single component - making up 75% of total 'direct' costs.[12]

We've also analysed the administrator reports for failed suppliers to understand how big other costs to industry are, and how much might be returned based on the failed supplier's assets.[13]

We identified £71 million in costs to other energy industry participants (such as metering companies, industry processes and networks) that we think will indirectly feed through to higher consumer bills.[14]

Adding this to the projected cost of £120 million for levies gives a total of £191 million before any money is returned to creditors of the failed suppliers.

Our analysis showed that on average only 10p in every £1 is likely to returned to creditors from the supplier failures. This would reduce the final cost to consumers to around **£172 million.**

Policy recommendations

1

Given the negative consumer impacts of supplier failures, it's vital that regulation is designed to limit their likelihood and reduce the harm when they occur. Ofgem's recent changes to entry requirements should help stop unprepared companies entering the market.[17] But **Ofgem also needs to introduce new ongoing requirements and monitoring** to make sure all suppliers are being run responsibly and offering appropriate levels of service.

2

There is a clear protection gap in the SoLR process for customers who owe money to administrators after their supplier fails. In contrast, the Energy Supply Company Administration (ESCA) process - used if large suppliers fail - appoints an administrator that must protect consumer interests and follow Ofgem rules, including on debt. It also allows the government to fund the supplier until it can be sold or broken up. This protects customers and limits disruption to the rest of the market.

We recognise that the ESCA process may not be proportionate for smaller supplier failures, where the knock-on impacts of supplier failure are significant but more manageable. However, we don't think it's fair that customers of larger suppliers get more protection than those with smaller ones.

Government should change the rules to require administrators of smaller energy companies to also consider consumer interests and to follow Ofgem rules. This would protect consumers from these poor debt practices.

Alternatively, it could introduce a requirement for the administrator to sell customer debt to the new supplier at a prescribed discount, with a parallel requirement for the new supplier to purchase it. The new supplier could then manage this debt in accordance with Ofgem's rules.

3

All consumers pay socialised costs when suppliers fail. While these are necessary to cover the cost of protecting customer credit balances and payments to renewable generators, they should be minimised as much as possible.

The largest costs arise from unpaid bills for the Renewables Obligation. This is paid on an annual basis, which means very large costs can accrue. In October 2018 6 suppliers missed the final deadline to pay for the scheme.[S] Other schemes, like the Feed In Tariff are paid for quarterly, which reduces the level of payments that can be built up by suppliers.

Some stakeholders have called for Ofgem to mitigate this risk, and it has floated a principles-based rule that requires suppliers to make ‘prudent provision to discharge their obligations’ to schemes like this.[18] We think that such a rule is unlikely to be enough. By the time the regulator becomes aware of the problem it may already be too late. Ofgem itself has said ‘the impact would be limited where it is clear that a supplier has insufficient funds to discharge these obligations’.

Instead, government should amend legislation to require the bills for the Renewables Obligation to be paid more frequently.

4

The second biggest cost from supplier failures is credit balances. We’ve seen some failing suppliers take actions that would inflate credit balances - such as increasing direct debits. This could be an attempt to improve their financial situation and stave off collapse. But if they subsequently fail this action increases the socialised costs paid by all other consumers.

We’ve called for Ofgem to use its licensing review to take steps to limit excessive customer credit balances, and ensure suppliers have processes in place to protect them.[19] Ofgem’s licensing review is developing principles based rules to achieve this outcome, and we will continue to work with them as the review progresses.[20]

References

1. We estimate, based on Ofgem data, that 835,000 domestic customers have been transferred by the SoLR process from a failed supplier since January 2018 (see Appendix, p. 17). However, there is an unknown number of customers who had previously left the failed supplier who are owed money by, or owe money to, the supplier who are also affected by the failure.

2. Comparing cheapest tariff on offer from the failed supplier against average cost across the market for similar tariff in the month prior to the supplier failing. Ofgem medium TDCV's used for comparison.

3. Ofgem, Ofgem safety net: If your energy supplier goes out of business.

4. Ofgem, Memorandum of Understanding: Energy Supply Company Administration and Energy supply company administration rules impact assessment.

5. Ofgem's most recent data (Q4 2017) showed that there are a total of 2,242,848 gas and electricity accounts are either repaying a debt, or are in arrears without an arrangement to repay. Ofgem's state of the market report 2018 estimates that there are 51,000,000 gas and electricity accounts. This indicates around 4.4% of all accounts are in debt. Applying this to the number of customers who have been through the SoLR process since 2018 in which the supplier did not purchase the failed supplier debt (740,800), we estimate that 32,585 would have been in debt to their old supplier.

6. Based on Ofgem data on the length of repayment plans for customers on prepayment.

7. 1,011 cases related to debt issues were identified in total, based on a count of Citizens Advice consumer service cases coded as debt issues relating to failed suppliers with 10,000 customers or more, covering 3 months of data from when debt collection appeared to start. The median average debt amount is based on a sample of 200 cases with debt amounts recorded in case notes regarding failed suppliers with 10,000 customers or more, covering data from the second month following supplier failure onwards.

8. Historic star rating data is available here. We are only able to publish data where we have permission from suppliers to publish underlying data from our Star Rating.

9. Citizens Advice, unpublished analysis and blog, Why energy suppliers need to keep their customer phone services (November 2018).

10. Data for Spark Energy, OneSelect and Industry Median are taken from the Q3 2018. The data for Iresa is taken from Q4 2017.

11. Ofgem, Iresa Provisional Order (March 2018) and Economy Energy Provisional Order (March 2014).

12. Data from Renewables Obligation Late Payment Distribution 2017-2018, Feed in Tariff quarterly reports and Last Resort Supplier Payment Claim.

13. For a full list of failed suppliers see Appendix, p. 17.

14. All figures taken from latest (as of 12/06/19) administrator reports see Appendix p.17) published on Companies House for each failed supplier,. Actual figures are subject to change as the insolvency processes for the companies progresses.

15. Cornwall Insight projected total costs of Renewable Obligation, Feed in Tariff and SoLR Levy of failed suppliers to date (June 2019).

16. Ofgem, Decision on modifications to the Electricity Distribution Licence to recover the costs associated with appointing a Supplier of Last Resort (May 2019).

17. Ofgem, New tougher entry tests for energy suppliers (April 2019).

18. Ofgem, Renewables Obligation Late Payment Distribution 2017 - 2018 (November 2018).

19. Citizens Advice, What can the regulator do to reduce energy company failures? (February 2019).

20. Ofgem, Update on the way forward for the 'ongoing requirements' and 'exit arrangements' phases of the Supplier Licensing Review (May 2019).

* All names in this report have been changed to protect identity.

Appendix: Failed Suppliers

Supplier	Date of failure	Number of Customers (Ofgem)	Administrator reports of costs (Companies House)
Future Energy	25th January 2018	10,000	Statement of administrator's proposal
National Gas & Power	25th July 2018	80	Statement of administrator's proposal
Iresa	27th July 2018	95,000	Statement of affairs
Gen4U	13th September 2018	500	Statement of affairs
Usio	15th October 2018	7,000	Statement of administrator's proposal
Extra Energy	21st November 2018	129,000	Statement of administrator's proposal
Spark	23rd November 2018	290,000	Result of meeting of creditors
One Select	10th December 2018	36,000	Notice of deemed approval of proposals
Economy Energy	8th January 2019	235,000	Statement of affairs
Our Power	25th January 2019	31,000	Statement of administrator's proposal
Brilliant Energy	11th March 2019	17,000	Statement of administrator's proposal