



*Promoting choice and value for  
all gas and electricity customers*

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Dear Warm Home Discount Team

### **Consultation on the Warm Home Discount**

Ofgem welcomes the opportunity to comment on the consultation document "Consultation on the Warm Home Discount" (December 2010). We have been working closely with the Department of Energy and Climate Change (DECC) in their development of this scheme, and will continue to provide advice and guidance ahead of the scheme's commencement in April 2011.

In our view the best way to tackle fuel poverty is through improving the energy efficiency of housing - which is the sustainable solution - and through the tax and benefits system, which is the least regressive and most flexible way of effecting redistribution. However, we recognise that in the current economic climate providing financial support in this way may not be a realistic possibility and improving the energy efficiency of housing is a long term project which will take time to have effect. Given these realities, we welcome the introduction by government of the Warm Home Discount (WHD) scheme and are committed to working with government to ensure that the arrangements are as effective as possible and that any potential negative impacts on the wider consumer base and competition are minimised.

The existing voluntary agreement between suppliers and government (effective from 2008 to 2011) and the pilot Energy Rebate Scheme have provided valuable foundations for the proposed mandatory arrangements. They have encouraged energy suppliers to provide financial assistance with energy costs to vulnerable households and improved the targeting of eligible customers for energy rebates. By building on and learning from these initiatives, the WHD scheme has the potential to support vulnerable customers more effectively by offering better targeted support to a greater number of customers in or at risk of fuel poverty.

To ensure that the policy objectives of government in relation to the WHD scheme are met it is important that all requirements are clearly defined in the legislation. As the timescales within which to implement the scheme are very tight, it is important that all scheme stakeholders are very clear about exactly what their roles and responsibilities will be.

### **Key points**

There are some key areas of the consultation and regulations that we think should be further considered before the draft legislation is laid in parliament.

- 1) There is a need for much greater clarity and guidance from government, particularly with regard to the eligibility criteria for the broader group and what constitutes an at

risk of fuel poverty risk group for the purposes of industry initiatives. At present the regulations do not go into sufficient detail as to which customers should be viewed as being in a group at risk of fuel poverty. It therefore leaves it open to suppliers to propose possible groups of customers as candidates for support under the broader group and industry initiatives and Ofgem to determine whether those groups are suitable. We are concerned that this leaves suppliers and Ofgem in the default position of deciding who should be eligible for help. It is consistent with Ofgem's role in administering schemes on behalf of government that matters of judgement such as this are properly for government. Furthermore, the Energy Act 2010 sets an expectation that the Secretary of State will provide an "opinion" as to which groups of consumer should be viewed as being in a "group at risk of fuel poverty".

By providing greater detail in the regulations, DECC can reduce the amount of guidance they need to publish and ensure a more effective scheme launch in April. This is especially true when it comes to defining those customers in "groups at risk of fuel poverty". For Ofgem to be able to assess compliance with supplier's obligations in the scheme, it is necessary that the regulations and/or guidance DECC publishes gives clear direction as to which group of customers should be targeted. Otherwise this will create a bigger administrative burden for Ofgem necessitating more resource and additional cost to the scheme.

- 2) It is critical that policy decisions and clarification are taken and made known quickly in order to achieve the very tight April 2011 timetable. In order for us to be in a position to publish guidance to suppliers and be ready to operate the scheme from 1 April 2011 we need confirmation of final policy decisions and final draft regulations by Monday 31 January 2011. Any delay will impact on the ability of Ofgem, suppliers and other key organisations to successfully develop the scheme for launch in April 2011.
- 3) As overall managers of the WHD scheme, it will be DECC's responsibility to ensure that different operators and administrators are able to work together, that the administrative processes that are put in place are fair and transparent and that roles and responsibilities are properly defined and understood.
- 4) The auditing arrangements for the scheme will need to be determined before the launch of the scheme. As the money is classified as public money it should meet the best practice standards expected by the National Audit Office and HM Treasury. However, the cost of additional fraud prevention measures and auditing requirements to suppliers must be in proportion to the value of the benefits.
- 5) Ofgem has previously highlighted that calculating a supplier's share based on customer accounts is a regressive basis for recovering costs and that linking market share to kWh would be better. We recognise that there are some low income high use households that would be adversely affected but on average low income customers spend less on energy. We have done some work looking at the characteristics of low income high use households, which we hope to publish in January. By focusing help on these groups of customers through other means, any adverse impact from calculating a supplier's share based on kWh could be mitigated.
- 6) Finally, we consider data matching is key to better targeting and effective delivery of benefits to customers most in need. It is essential that work is progressed on data matching processes in a timely manner to ensure benefits to the core group are delivered during the first year of the scheme.

In addition, we strongly support extending data matching to other groups of customers in fuel poverty other than those receiving Pension Credit. While we recognise that data matching is only currently available for those in receipt of Pension Credit because legal provision for data matching has only been made for this group, we would like to see government take forward data matching for other groups of customers at risk of fuel poverty.

We have provided our response to the consultation questions that are of primary concern to Ofgem in the attached appendix. If you have any further questions regarding our response, please contact Jonah Anthony ([jonah.anthony@ofgem.gov.uk](mailto:jonah.anthony@ofgem.gov.uk); 020 7901 0524) or Claire Tyler ([claire.tyler@ofgem.gov.uk](mailto:claire.tyler@ofgem.gov.uk); 020 7901 7331).

Yours sincerely

Maxine Frerk  
**Partner, Sustainable Development**

Sent on behalf of both Ofgem and Ofgem E-Serve

## Appendix - Response to the consultation questions

- 1. Do you agree that Warm Home Discount policy should be implemented in line with the principles outlined in this chapter? Please explain your answer.**
- 2. Do you agree with the structure of the proposed Warm Home Discount scheme, including the target groups, type of benefit and distribution of funding between the four sections of the scheme? Please explain your answer.**
- 3. Do you agree with the suggested eligibility criteria for the Core group as set out in the table on page 21 and in paragraphs 51- 55? Please provide evidence to support your views.**

### Ofgem response:

We agree with DECC's 5 Key Principles as outlined on page 14 of the consultation document. Certainly the way in which the four elements of the WHD scheme are developed should meet those objectives. The regulations should be used to provide greater clarity as to which groups should be targeted and what types of activities should be permitted. This will provide greater clarity to the four elements as well as ensuring that principles 1, 2 and 3 are adhered to (which are 1. delivering a clear benefit for consumers; 2. better focused support on vulnerable households; and 3. delivers value for money). We are particularly supportive of the use of data matching in the Core Group and are keen for this method to be expanded to target other customers at risk of fuel poverty.

Principle 5 also looks to guide us to provide a smooth transition from the current voluntary arrangements. The Legacy Spend element certainly looks to allow suppliers to provide discounted tariffs to vulnerable consumers in the interim period as we look to move them onto a guaranteed benefit in the Core or Broader groups. It is essential that policy decisions are taken and made known as soon as possible to allow suppliers the time to make the necessary arrangements for those customers benefiting from activities currently undertaken in the voluntary agreement. Any delay in deciding how the scheme will be structured or confusion surrounding what the mandatory arrangements will be may restrict the time suppliers have to adapt their processes and activities and could potentially have an adverse impact on consumers.

From an administrative perspective, we welcome the clear structures which define each group and the fact that there are only four different elements to the scheme. As designed at present the scheme can be administered in an effective manner. However, any significant changes to these elements may make it difficult to establish the scheme and operate it effectively from April 2011.

- 4. Do you agree with the proposals on how benefits are provided to PPM consumers (eg that energy suppliers will use the means that they currently use for that group)? Please provide evidence to support your views.**

### Ofgem response:

We consider that it is sensible to allow suppliers flexibility in how the rebate is provided to PPM consumers. If suppliers were required to provide the rebate electronically through the PPM, for example, this could increase suppliers' administrative costs and ultimately be passed on to customers' through energy bills.

- 5. Do you agree that it would be helpful for consumers if energy suppliers are required to use common language to describe rebates provided through the Core (and Broader) Group on consumer bills? Please provide evidence to support your views.**

**Ofgem response:**

We agree that it would be helpful to consumers, and in ensuring an effective competitive market, if energy suppliers use a common language to describe rebates, particularly under the core group. Amongst other things, this should help provide consumers in the core group with confidence that if they switch they will still receive the rebate.

**6. Do you agree with the suggestion that energy suppliers should have discretion to target the Broader Group support at those vulnerable households they can identify who fall outside the Core Group? Please provide evidence to support your views.**

**Ofgem response:**

From an administration perspective, the clearer the definitions contained in the regulations and the less discretion available to energy suppliers, the fewer the resources we will require to process applications for scheme activities. This is because the more the scheme is open to interpretation (as to who is fuel poor or at risk of fuel poverty), the greater the need for dialogue between Ofgem and suppliers to ensure the right people are being successfully targeted. This will impact on our ability to approve proposed activities quickly and suppliers may subsequently have limited time to successfully undertake the activities proposed and meet spending obligations. DECC must ensure the correct level of resources are provided to allow Ofgem to administer the scheme effectively, based on the level of discretion permitted in the scheme.

To reduce administrative costs and allow schemes to be quickly pre-approved in April and May of year one, DECC should provide guidance or an opinion on who are "groups at risk of fuel poverty". Article 15 (5) of the Energy Act 2010 creates an expectation that the Secretary of State will give his opinion as to what he believes constitutes an "at risk of fuel poverty group". Such an opinion can then be used by both Ofgem and suppliers to target the right customers, without limiting a supplier's discretion to find other eligible customers.

Suppliers would simply need to provide enough evidence to give the scheme confidence that the right people are being targeted, if they chose groups not identified by the Secretary of State. This hybrid approach will allow certain scheme activities to be approved quickly, without preventing suppliers from being innovative in their targeting.

As DECC will be aware of, we are working with suppliers on the development of the scheme ahead of providing guidance. The issue of which groups should be targeted in the Broader Group is one of the areas that has been discussed and raised as an area that needs DECC to provide greater clarity in order for the scheme's administration to be efficient and effective from April 2011.

**7. Do you agree that requiring energy suppliers to manage down any spending on Voluntary Agreement commitments is appropriate, and that reducing as set out above (£130m in year 1, £65m in year 2, £33m in year 3, £0 in year 4) is an appropriate way to do this? Please provide evidence to support your views.**

**Ofgem response:**

We agree that it is helpful to move to a standardised approach (ie provision of a common rebate) but that this should be done in a managed way by gradually reducing legacy spending.

**8. Do you agree that energy suppliers should be able to include funding of the type of activities identified in paragraphs 71-74 within their Warm Home Discount contributions? Please provide evidence to support your views.**

9. **Do you agree that the cap on this form of spending should be set £20m? Please provide evidence to support your views.**
10. **Do you consider there should be a cap on the amount energy suppliers can spend on providing debt relief? Please provide evidence to support your views.**
11. **Do you believe there should be additional caps within this section on particular types of spending? Please provide evidence to support your views.**
12. **Do you agree that the proposed level of costs for different benefit entitlement checks outlined in paragraph 77? Please provide evidence to support your views.**
13. **Do you agree that the proposed criteria for Industry Initiatives encompass a suitable range of activities which should be included in the Warm Home Discount scheme? Please provide evidence to support your views.**

**Ofgem collective response to above questions:**

The proposals in relation to industry initiatives build on guidance Ofgem developed in administering the voluntary scheme and hence we agree with the broad approach. However, a more precise formulation becomes more critical as the scheme is put on a statutory footing.

Similar to our answer to question 6, the greater these regulations are open to interpretation, the more resources we will require to process Industry Initiative applications. DECC must ensure the correct level of resources are provided to allow Ofgem to administer the scheme effectively, based on the level of discretion permitted in the scheme.

If DECC has a clear idea of the activities they want to be supported by the scheme, and which activities they do not wish the scheme to support, they need to ensure the regulations reflect this position. Once in place, Ofgem will not be able to permit or prohibit scheme activities unless we can do so on the basis of the regulations.

DECC should also make clear in both their decision document, and if necessary in the regulations, as to how WHD interacts with other government support schemes (such as FITs and RHI).

The regulations also need to be amended to ensure that the provision and/or funding of energy efficiency measures, energy efficient appliances and microgeneration, energy advice and the training of persons to provide energy advice are only allowable industry initiatives under the scheme where they are targeted at customers in fuel poverty or in a fuel poverty risk group. We consider the current drafting of the regulations does not make this clear.

14. **Do you agree that the costs of the Warm Home Discount scheme should be split between energy suppliers based on their share of customer accounts (as is the case under the current Voluntary Agreement)? Or would it be appropriate to use an alternative metric? Please provide evidence for your views.**

**Ofgem response:**

Ofgem has previously highlighted that calculating a supplier's share based on customer accounts is a regressive basis for recovering costs and that using market share based on kWh would be better. We recognise that there are some low income high use households that would be adversely affected but on average low income customers spend less on energy. We have done some work looking at the characteristics of low income high use households, which we hope to publish in January. By focusing help on these groups of

customers through other means (including the WHD itself), any adverse impact from calculating a supplier's share based on kWh could be mitigated.

**15. What do you consider to be the best way to deal with any potential under-spend in the Core Group? Please provide evidence and examples of how any proposals may work.**

**Ofgem Response:**

We do not have a position at present on how such under-spend should be dealt with. However it should be noted that if a significant under-spend from the Core Group was transferred to the Broader Group, Industry Initiative and Legacy Spend elements of the scheme, then this may increase the administrative burden on both Ofgem and suppliers and may necessitate additional resources for Ofgem. This is because suppliers may not be able to simply extend established activities, and may be forced to introduce new activities and attract different customers in order for it to meet its amended spending target. We would therefore likely see an increase in our workload as we work with suppliers to pre-approve additional scheme activities. DECC will need to confirm that we will have the ability to increase operational budgets if our administrative burden was to increase because of under spend in the Core Group.

The timing of when an under-spend would transfer to the remaining parts of the scheme is also critical. This is because any delay in setting the spending obligation for the non-core elements will reduce the time afforded to suppliers to have activities pre-approved and spend the money. Any reduction in time will increase the risk of suppliers failing to be compliant with their WHD obligations. If this option was to be selected, DECC must state clearly when such decisions will be taken and what contingency funding will be available to Ofgem to ensure pre-approval processes can effectively cope with any increase in applications.

**16. Do you agree energy suppliers and government should use data matching to help find eligible members of the Core Group? Can you think of alternative proposals for how to do this, including how, if we use data matching we could find people who do not match?**

**17. As set out at paragraph 103, the reasons for which energy suppliers can use the information from the data match will be set out in detail in Regulations under Section 142 of the Pensions Act 2008. Are there any reasons you think suppliers should or should not be able to use this information? Please provide evidence to support your answer.**

**Ofgem response:**

We strongly support data matching to deliver energy rebates directly to customers that need it most. Through our Fuel Poverty Summit in April 2008 we pushed for an agreement between DWP and suppliers to take forward data matching – the pilot Energy Rebate scheme was the result.

Currently data matching is only available for those in receipt of Pension Credit because legal provision for data matching has only been made for this group. In the future, we would like to see government take forward data matching for other groups of customers at risk of fuel poverty. However, we recognise that because legal provision has to be made for data matching of particular groups this is a longer term project.

**18. On the data matching methods**

- **What is your view on using software to cleanse the address data and ensure customer details are recorded in the same way? Do you have any proposals for how to do that better?**

- **Do you have a view on using techniques (often called 'fuzzy matching') in the match process? Do you think we should apply them? What do you see as the advantages and disadvantages? Do you have examples, supported by evidence of approaches that work well?**
- **We have outlined some possible options for the automatic match routines above and set out one possible proposal in Regulation 7 of the draft scheme Regulations. We have suggested some advantages and disadvantages of tightening or loosening the match routine. Do you have any views on which match routines we should use? Do you have a preference between the options we have set out or have ideas for others? Can you see any other arguments for or against such an approach? Could you support any example with what you see as the advantages and disadvantages of them?**

**Ofgem Response:**

It is DECC's responsibility to ensure that the lists provided to Ofgem are accurate, comprehensive and are delivered in a timely fashion. These lists should detail the number of matches each supplier has received through the data match and sweep up exercises. If the quality of the list is poor, possibly due to incomplete data or a high number of false matches being included, then this will impact on our ability to check compliance. DECC needs to provide clarity on how it will produce these lists and when it will be able to send them to us. We will then be able to plan how and when we would check supplier compliance in the Core Group. The sooner this clarity is received, the sooner we can finalise our proposals for administering this part of the scheme.

DECC will need to ensure that it defines what a rebate payment may constitute, for the purpose of a supplier meeting its obligation. There are likely to be occasions when suppliers have made reasonable efforts to pay the rebate, but for certain reasons that rebate is not received/realised by the eligible customer. DECC will also need to elaborate as to what it believes are exceptional circumstances where suppliers would not need to make rebate payments to a customer, even though the customer was matched to it through the data match and sweep up process. DECC will need to ensure the regulations are adequately drafted to provide Ofgem with sufficient direction as to how to judge exceptional circumstances. If this is left open to interpretation, it will make supplier reporting and compliance checks more difficult as Ofgem and suppliers would need to agree what constituted an exceptional circumstance. This would involve more resources than if DECC were to provide a definition.

**19. Do you agree with the proposed annual cycle for the scheme? Please provide evidence to support your views.**

**Ofgem Response:**

It is critical that policy decisions and clarification are taken and made known quickly in order to achieve the very tight April 2011 timetable. The design and establishment of many of the administrative and industry processes will depend on those policy decisions and clarifications, and how they manifest themselves in the regulations. Any delay will impact on the ability of both Ofgem and suppliers in successfully developing the scheme for launch in April 2011. It may be prudent to consider delaying the implementation of aspects of the scheme if certain decisions cannot be made until later in 2011.

**20. We propose that it is important for all parties to consider how best to balance the need to gain the necessary assurances that suppliers' spending would meet the requirements of the mandated scheme alongside the administrative burdens which could be associated with demonstrating this. We welcome views on this issue, in particular what a reasonable level of assurance would be for verifying eligibility in the Broader Group and what the associated costs**

**would be. Please provide suggestions and evidence as to how this balance can best be achieved.**

**Ofgem Response:**

It is important, when considering this question, to agree how the money being spent is classified. If the money is classified as public money, then fraud prevention measures and audit requirements should be in line with best practices expected by the National Audit Office and HM Treasury. We should also be mindful of the experience gained by other government department and agencies, and the advice from the government that prevention and deterrence should be a key component of our fraud prevention strategy.

Any proposed fraud prevention measure or audit requirement must ensure that it meets these standards. We would expect that any proposal put forward would be supported by sufficient evidence to provide confidence that it is an effective fraud prevention or audit measure. In addition, advice from government is that we should move away from a system of paying out benefits and then checking eligibility, to a system of checking eligibility before paying out benefits. HMRC and DWP have referred to this as the 'Check first, then pay' principle in their document "tackling fraud and error in the benefit and tax credits systems (October 2010)".

Of course, the cost of fraud prevention measures and auditing requirements must be compared to the value of the benefits and the level of risks, recognising that ultimately consumers are paying for the costs of such measures. However given the possibility that these rebates may be used to identify vulnerable customers in the proposed Energy Company Obligation (ECO) or be a 'gateway' to other assistance, the value of the overall benefit should be considered when making this calculation.

**21. Do you agree with the proposed methodology for calculating the value of suppliers' spending on discounted tariffs? In particular:**

- **Will the principles set out in paragraph 131 (see Regulation 17 and Schedule 1 of the draft Regulations for further detail) allow Ofgem to identify a suitable reference tariff for each supplier, against which to value that supplier's discounted tariff?**
- **Do you agree that average tariff values (where tariffs vary across regions) should be determined using weightings by customer numbers within each region?**

**Please provide evidence to support your views.**

**Ofgem Response:**

Ofgem agrees with the proposed methodology for calculating the value of suppliers' spending on discounted tariffs. We believe this is the most effective way of gaining a good idea of suppliers' spending without placing an unnecessary administrative burden on Ofgem or suppliers.

Calculation of average tariff values

Calculating average discounted tariffs by weighting a supplier's customer numbers within each region is a more accurate method of calculating tariff values than simply averaging across regions. We therefore agree with this approach.

However, suppliers will need to provide data to Ofgem on the number of customers on each of its discounted tariffs and reference tariffs in each region. DECC should ensure that suppliers will be able to provide the data in this format ahead of taking a decision on the calculation. In addition, the earlier that DECC publishes their decision on the calculation,

the easier it will be for suppliers to ensure their systems can provide the data in this format from 1<sup>st</sup> April 2011.

#### Other considerations – E.ON's StayWarm Social and Warm Assist Fixed tariffs

DECC should be aware that currently E.ON's StayWarm Social and Warm Assist Fixed tariffs have a different price structure to other suppliers' discounted tariffs. The price structure is such that it will not be possible to calculate E.ON's contribution from these tariffs using the proposed methodology.

StayWarm Social offers a fixed price for energy based on where the customer lives, the number of bedrooms and the level of occupancy of the property. Therefore, the savings from this tariff cannot be calculated according to the customer's consumption, as this is not taken into account when setting the customer's fixed price.

Under the current voluntary agreement, E.ON provides us with a total figure for the contribution made from StayWarm Social. This is calculated by working out the actual amount that customers on StayWarm Social paid from adding together the total for individual customer accounts, and subtracting this from what these customers would have paid according to their actual consumption for the year, had they been on E.ON's standard gas and electricity tariffs. In order for us to have confidence that E.ON have given us accurate data they provide us with a sample of customer data where we can see their methodology for working out their contribution in this way.

E.ON's Warm Assist Fixed product is also not charged per unit of energy used. A fixed price is worked out for the customer based on their individual consumption over the past year and the product rate at the time of subscription. 15% is then deducted from this to get the annual bill, which is paid in 12 equal monthly payments during the year. Therefore, the contribution from this tariff cannot be calculated according to the methodology laid out in the draft regulations as the amount the customer pays is not based on their actual consumption during the reporting year and is based on the unique price of the tariff at the time of subscription. As with StayWarm Social, E.ON provides us with a total figure for the contribution made from WarmAssist Fixed. This is calculated by working out the actual amount that customers on WarmAssist Fixed paid and subtracting this from what these customers would have paid according to their actual consumption for the year, had they been on E.ON's standard gas and electricity tariffs. In order for us to have confidence that E.ON has given us accurate data they provide us with a sample of customer data where we can see their methodology for working out their contribution in this way.

#### Payment of discounted tariff benefits to PPM customers

Under the current voluntary agreement some suppliers provide their discounted tariff benefit to eligible PPM customers by crediting their account with a rebate, or a number of rebates throughout the year. This is due to the complexities associated with putting a PPM customer on the discounted tariff itself.

Currently the draft regulations do not appear to clearly set out whether this type of benefit could be counted under a supplier's spending on discounted tariffs or as part of the supplier's industry initiatives. If it is intended that this expenditure should be included then it will need to clearly fit into one of the categories in the draft regulations.

#### **22. Do you agree that the proposed criteria for Industry Initiatives encompass a suitable range of activities which should be included in the Warm Home Discount scheme? Please provide evidence to support your views.**

We agree with the proposed range of activities for Industry Initiatives. They build on guidance provided by Ofgem under the voluntary arrangements and maintain the most valuable elements of the scheme.