

Warm Home Discount: Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers

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Target audience: All GB licensed electricity suppliers, all GB licensed gas suppliers, consumer groups and other interested stakeholders.

Overview:

This document provides guidance on how Ofgem will perform its duties under the scheme, what suppliers will need to do to comply and how it will interpret various provisions of the Warm Home Discount scheme. The Energy Act 2010 provides the Secretary of State with powers to make regulations to introduce schemes for the purpose of reducing fuel poverty. Regulations to enable the Warm Home Discount scheme have been made under these powers and requires Ofgem to undertake a number of functions and responsibilities.

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Context

The Energy Act 2010 provides the Secretary of State with powers to make regulations which introduce one or more support schemes for the purpose of reducing fuel poverty. These powers have been exercised through the Warm Home Discount Regulations 2011 (2011/1033) to establish the Warm Home Discount (WHD) scheme. These regulations were made on Thursday 31 March 2011. They came into effect on Friday 1 April 2011.

Section 13 of the Energy Act 2010 places an obligation on the Authority to keep under review the operation of any such support scheme and suppliers' compliance with it. The Warm Home Discount Regulations 2011 (the "WHD Regulations") and the forthcoming reconciliation regulations¹ further extend the Authority's role by requiring it to undertake a number of functions. These include receiving information, providing information, making calculations and pre-approving scheme activities before suppliers provide eligible benefits under the scheme.

This guidance seeks to explain Ofgem's role and responsibilities in the WHD scheme, make transparent how Ofgem will undertake its duties and provide instructions as to how suppliers are to provide information to Ofgem for the purpose of complying with the scheme's requirements.

In this document, all references to the Secretary of State are to the Secretary of State for the Department of Energy and Climate Change (DECC).

Associated Documents

- Monitoring suppliers' social programmes 2009-10
<http://www.ofgem.gov.uk/Sustainability/SocAction/Suppliers/CSR/Documents1/Monitoring%20Suppliers%20Social%20Spend%202009-10.pdf>
- Monitoring suppliers' social initiatives
http://www.ofgem.gov.uk/Sustainability/SocAction/Suppliers/CSR/Documents1/Monitoring_suppliers_10508.pdf
- The Warm Home Discount Regulations
<http://www.legislation.gov.uk/ukdsi/2011/9780111507650/contents>

¹ Intended to be made under powers in section 11 of the Energy Act 2010.

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Executive Summary

Introduction

The Warm Home Discount (WHD) scheme came into operation on 1 April 2011. The scheme mandates domestic energy suppliers to provide approximately £1.13 billion of direct and indirect support arrangements to fuel poor customers over four years. It replaces the existing 'Voluntary Agreement' between suppliers and Government which was established in 2008. More information on the Voluntary Agreement can be found [here](#).

This document is aimed at licensed electricity suppliers and licensed gas suppliers. It provides guidance on how Ofgem will perform its duties under the scheme and how it will interpret various provisions of the scheme, especially with regards to supplier compliance. The WHD scheme requires suppliers with 250,000 or more domestic consumers to provide mainly financial support with energy bills to households in fuel poverty and those at risk of fuel poverty. Suppliers below the 250,000 threshold may elect to participate in the Core Group element of the scheme.

Stakeholders should note that Ofgem's role is limited to certain elements of the scheme and other organisations will be tasked to facilitate other aspects of the scheme, especially the Core Group. Responsibility for WHD policy and legislation remains with the Department of Energy and Climate Change (DECC). Questions and queries on the scheme as a whole, and specifically on the Core Group, should be directed to DECC via email (enquiries@decc.gsi.gov.uk) or by telephone (0300 060 4000). Alternatively information can be found on the DECC website [here](#).

Overview of the WHD scheme

The WHD scheme is divided into four different elements: the Core Group, the Broader Group, Legacy Spend and Industry Initiatives. DECC is coordinating the Core Group, with Ofgem taking the lead in administering the remaining 3 elements.

Core Group

Support under this category will be targeted at older poorer pensioner households. A data matching exercise between the Department for Work and Pensions (DWP) and suppliers will be conducted to match the details of recipients of certain elements of Pension Credit against suppliers' customer databases. Those in receipt of a subset of Pension Credit will receive the benefit. Customers successfully matched by this process will receive an automatic annual rebate of at least £120, rising to £140 by the end of the scheme. See Chapter 3 for more details.

Broader Group

In addition to the Core Group, suppliers will be required to provide an annual rebate to a group or groups of customers based on eligibility decided by suppliers themselves. The Government has provided eligibility criteria that suppliers can choose to use to target Broader Group support. However suppliers are also free to propose additional eligibility criteria for approval by Ofgem to identify eligible customers. See Chapter 4 for more details.

Legacy Spend

Under the scheme, suppliers have the option to continue to offer discounted/social tariffs or rebates to the types of customers who have benefited from these under the Voluntary Agreement. As the long term aim of the scheme is to move to fixed rebates under the core and broader groups, the amount of legacy spending which can be counted towards WHD obligations will decrease over the four years of the scheme and will be replaced with increased spending on the Core and Broader Groups. See Chapter 5 for more details.

Industry Initiatives

The scheme gives suppliers the option to spend up to a collective maximum of £30 million per year on initiatives aimed at providing and targeting support at those in or at risk of fuel poverty. See Chapter 6 for more details.

DECC's role

DECC will maintain overall responsibility for the coordination and oversight of the WHD scheme. In particular they will oversee the delivery of the Core Group activity and appoint a number of contractors to undertake specific tasks including the data match, the sweep up and the reconciliation exercises. DECC is also required to provide certain information to Ofgem and suppliers in order to enable them to undertake their WHD scheme duties and functions.

Ofgem's role in WHD

Ofgem's role in the WHD scheme is to monitor and where necessary facilitate suppliers' compliance with their new obligations. Other parts of the scheme will be facilitated by DECC or organisations appointed by DECC.

Ofgem's role within the WHD includes:

- Calculating the market share of each obligated supplier
- Setting suppliers' spending obligations for the non-core elements
- Pre-approval of Broader Group and Industry initiative proposals
- Auditing suppliers' compliance with the scheme, including through the use of external auditors

- Publishing an annual report of suppliers' activities under the Warm Home Discount Scheme

Suppliers' role and obligation under WHD

Compulsory suppliers and those who elect to become obligated as voluntary scheme suppliers are required to pay Core Group rebates to those customers identified through the data match and sweep up exercise. Compulsory suppliers are also obligated to meet individual non-core spending obligations. Details of how these spending obligations are calculated are in Chapter 2.

1. Introduction and Legal Framework

Chapter Summary

This chapter sets the overview and framework of the WHD scheme.

Overview of WHD scheme

1.1. The Government is committed to tackling fuel poverty and supporting vulnerable consumers to heat their homes at an affordable cost. The WHD scheme will be an important element in the Government's strategy for addressing fuel poverty.

1.2. For a number of years Ofgem has been proactive in highlighting voluntary measures undertaken by suppliers aimed at providing direct support to vulnerable consumers. Our aim in doing this has been to share and recognise good practice and help inform consumer advisers about the range of help available. Since 2008 Ofgem has monitored and reported on the six major energy suppliers' commitments under the Voluntary Agreement. This was an agreement between the Government and the six energy suppliers which set out a commitment for suppliers to provide direct and indirect support to vulnerable customers and low income customers. The amount to be spent was agreed to be £50 million in the first year of the agreement (2008/9) and rising to £150 million in the last year of the agreement (2010/11). We published our report on the second year of the Voluntary Agreement (2009-10) in September 2010 which showed suppliers spent £153 million on social programmes.

1.3. We will use the experience gained in monitoring and reporting on the Voluntary Agreement to fulfil our duties and functions under the WHD scheme.

1.4. The Government's vision for the WHD scheme is based on four key elements: the Core Group, Broader Group, Legacy Spend and Industry Initiatives.

Diagram A: Summary of WHD scheme



1.5. The Core Group (Chapter 3) will benefit households identified by the Government as being at risk of fuel poverty and will be found through data matching and sweep-up. These households will receive a specified financial benefit in the form of a rebate from their electricity supplier. The Broader Group (Chapter 4) will also benefit households who are fuel poor or at risk of fuel poverty, but these households will be identified as eligible for a rebate by suppliers within the scheme parameters. This rebate will be of the same value as those provided in the Core Group. The transitional Legacy Spend element (Chapter 5) is designed to allow suppliers to provide similar financial support to that available under the Voluntary Agreement. Permitted Legacy Spending by suppliers will decrease over the course of the scheme, as spending on the Core and Broader Group increases. Industry Initiatives (Chapter 6) are supplier funded programmes and partnerships which provide other benefits to vulnerable households (e.g. debt advice, energy efficiency measures).

Legal framework

1.6. The Energy Act 2010 provides the Secretary of State with the powers to make regulations to introduce one or more schemes for the purposes of reducing fuel poverty.

1.7. The WHD scheme has been established under the Warm Home Discount Regulations 2011 (WHD Regulations). These were made on Thursday 31 March 2011. They came into effect on Friday 1 April 2011.

1.8. Additional regulations, to be made under section 142 of the Pensions Act 2008, will be required to allow for data sharing between the Government and

participating energy suppliers. Separate regulations will also be made to facilitate the reconciliation process. We will issue guidance as and when appropriate. In the meantime we will continue to work with DECC and scheme participants to ensure the smooth operation of the scheme.

1.9. Under section 28(8) of the Gas Act 1986 and section 25(8) of the Electricity Act 1989 (as amended by the Energy Act 2010), any requirement made under section 9 or 11 of the Energy Act 2010 is a relevant requirement for the purposes of Part 1 of the Gas Act 1986 and Part 1 of the Electricity Act 1989. The WHD Regulations were made under Section 9 of the Energy Act 2010. Ofgem can take action if it is satisfied that a supplier has contravened, is contravening or is likely to contravene a relevant requirement. Such action may be by way of an order for securing compliance and / or, where a supplier has contravened or is contravening, by the imposition of a financial penalty.

Supplier obligations

1.10. Compulsory suppliers and those who elect to become obligated as voluntary suppliers are required to pay Core Group rebates to those domestic customers identified through the data match and sweep up exercise. This activity will be managed by DECC, but further details are in Chapter 3.

1.11. Compulsory suppliers are also obligated to meet individual non-core spending obligations. Details of how these spending obligations are calculated can be found in Chapter 2.

1.12. Suppliers are also required to fulfil a number of compliance activities as part of their obligations under the WHD scheme. The following table summarises these compliance activities and when they are expected to be undertaken.

Table 1: Summary of supplier obligation

Supplier Obligation (for participating suppliers unless otherwise stated)	Timing for scheme years 2, 3 and 4
Customer Data notification (for all licensed electricity supplier and all licensed gas suppliers connected to a licensed electricity supplier)	By 14 February prior to the scheme year
Election notification (for non mandated licensed electricity suppliers)	By 14 February prior to the scheme year
Broader Group and Industry Initiative proposal notifications	From 1 April 2011 until 31 March 2015.
Spending on Broader Group, Legacy Spend and Industry Initiative	Between 1 April and 31 March each scheme year
Deadline for making Core Group rebate payments	The later of 31 March or 30 days following the last Core Group notice made by Secretary of State in that scheme year
End of year reporting on Broader Group, Legacy Spend and Industry Initiative	By 26 May following the end of the scheme year
End of year reporting on Core Group	The later of 26 May following the end of the scheme year or 12 weeks following the last Core Group notice made by the Secretary of State in that scheme year

1.13. The timing for supplier obligations in scheme year 1 differs from that shown in Table 1 only for the Customer Data notification and Election notification. Given that the WHD Regulations came into effect after 14 February 2011, the obligation to provide customer number data or elect to become a participating supplier, suppliers were required to submit notification within 14 days of the regulations being enacted. For those suppliers who were required to provide details of their domestic customer numbers for the Carbon Emission Reduction Target (CERT) programme, no additional notification was necessary as we were able to use that notification to calculate WHD obligations.

Ofgem's role in WHD

1.14. Section 13 of the Energy Act 2010 has placed a specific obligation on Ofgem to keep under review the operation of any fuel poverty scheme introduced by the Secretary of State under this Act, as well as compliance by licensed suppliers. Ofgem will use the powers provided by the WHD regulations,

and powers provided by the Electricity Act 1989 and Gas Act 1986, in order to fulfil its duties and functions under the WHD scheme.

1.15. Ofgem will look to confirm the participation of suppliers, provide further guidance if appropriate and set initial spending targets for scheme suppliers. Spending targets may then be adjusted to accommodate under or over spending in previous scheme years (see paragraphs 2.34 to 2.46 below).

1.16. During the scheme year we will help suppliers comply with their non-core spending obligations. This will be done through assessing and agreeing scheme activities proposed by suppliers in relation to the Broader Group and Industry Initiative elements of the scheme. For the Broader Group we will be specifically looking at whether appropriate eligibility criteria and verification measures will be in place. For Industry Initiatives we will be specifically looking at whether the activity proposed by a supplier falls under the list of activities set out in Schedule 4 to the Regulations, is additional to any other obligations on the supplier, if it is an effective proposal and whether the supplier can provide assurances that the money spent will benefit those in fuel poverty or in a group at risk of fuel poverty. Ofgem will confirm in writing, within 28 days of receiving a completed proposal, whether the scheme proposal under the Broader Group or Industry Initiative element has been approved, rejected or requires more information to be provided. Ofgem will also be checking the eligibility criteria of proposed activities for Legacy Spending and ensuring suppliers are not providing such benefits to a greater number of consumers than permitted.

1.17. Following the end of the scheme year, Ofgem will seek to confirm whether suppliers have met their WHD spending obligations. In particular we will want to confirm that:

- total spend met the spending obligation,
- limits of eligible spending have been adhered to, and
- activities were carried out in line with scheme regulations and/or pre-approval arrangements.

1.18. A combination of a supplier's own audited reporting, Ofgem's assessment, and Ofgem's review of a supplier's compliance by the Fraud and Compliance Manager in addition to the audit by contracted external auditors should provide confirmation that obligations are being met. If obligations are not met then Ofgem may conduct further investigation and may take enforcement action.

2. Notification and Target Setting

Chapter Summary

This chapter sets out the different types of notifications that can be made under the scheme, who makes them, when they are to be made and what details are to be included in such notifications.

This chapter also explains how a supplier's market share and non-core spending obligations are to be set.

Customer data notification

2.1. All licensed electricity suppliers, and all licensed gas suppliers connected to a licensed electricity supplier, are required to notify Ofgem of the number of domestic customers they had on the 31 December preceding the start of each scheme year. Domestic dual fuel customers are to be counted twice (once as an electricity customer and once as a gas customer). For scheme year 1 this notification was submitted to Ofgem within 14 days of the WHD regulations coming into effect. For scheme years 2, 3 and 4 this notification must be submitted to Ofgem by 14 February prior to that scheme year. Such customer data notifications should be in writing and submitted electronically to Ofgem's WHD Scheme Manager (WHD@ofgem.gov.uk). The notification should be submitted by a nominated representative of the licensed electricity or gas supplier, with the authority to make such notifications.

2.2. We are requesting that each individual customer data notification contains a list of all the licensed electricity suppliers and/or licensed gas suppliers which are connected to the licensed electricity supplier. In this scheme licensed electricity suppliers and licensed gas suppliers are connected to each other if they belong to the same group of companies. To reduce the administrative burden on suppliers we will accept joint notifications from connected licensed suppliers as long as they detail each licensed supplier's relevant customer data separately.

2.3. This customer data notification is the same customer data that some suppliers are required to notify Ofgem of under the Carbon Emissions Reduction Target (CERT) scheme. For scheme year 1 Ofgem was able to treat the notification submitted under CERT as a customer data notification under the WHD scheme. For scheme years 2, 3 and 4 we may look to integrate similar notifications made under CERT, the Community Energy Saving Programme, the Feed-In Tariff and any other information requirements placed on suppliers.

2.4. If a licensed electricity supplier or a licensed gas supplier fails to provide a notification as required by the scheme regulations then it will not be in compliance with relevant requirements of its licence conditions. Ofgem does have the powers to determine that supplier's domestic customers for the 31 December preceding the start of the scheme year. However that does not

remove the requirement from that supplier to submit notification of its number of domestic customers.

Compulsory and Voluntary Scheme Suppliers

2.5. A licensed electricity supplier is a Compulsory Scheme Supplier in a scheme year if it had at least 250,000 domestic customers on 31 December preceding the start of that scheme year. The term 'domestic customers' relates to the number of customers the scheme supplier has. For clarity for dual fuel customers with an electricity account and gas account customer would count as two domestic customers. Part 1 of the scheme Regulations (Interpretation in part 2) gives the definition of domestic customers and dual fuel customers. The chapters below provide further detail.

2.6. A licensed electricity supplier is also a Compulsory Scheme Supplier in a scheme year if:

a) it is connected to a licensed electricity supplier which is a Compulsory Scheme Supplier for that scheme year; or

b) it is connected to a licensed gas supplier which had at least 250,000 domestic customers on 31 December preceding the start of that scheme year; or

c) collectively the group of licensed electricity and gas suppliers connected to the licensed electricity supplier in question had at least 250,000 domestic customers on 31 December preceding the start of that scheme year.

2.7. A licensed electricity supplier can elect to be a Voluntary Scheme Supplier if collectively it, and any connected licensed electricity and/or gas suppliers had less than 250,000 domestic customers on 31 December preceding a scheme year and notifies Ofgem of its intention to be a Voluntary Scheme Supplier. This is commonly referred to as an election notification. For scheme year 1 this notification must have been submitted to Ofgem within 14 days of the WHD regulations coming into effect. For scheme years 2, 3 and 4 this notification must be submitted to Ofgem by 14 February in 2012, 2013 and 2014 respectively. Such customer data notifications should be in writing and submitted to Ofgem's WHD Scheme Manager (WHD@ofgem.gov.uk). The notification should be submitted by a nominated representative of the licensed electricity or gas supplier, with the authority to make such notifications.

2.8. A licensed gas supplier is a Scheme Gas Supplier in a scheme year if; they supplied domestic customers on 31 December preceding the start of the scheme year and is connected to a licensed electricity supplier which is a compulsory scheme supplier in that scheme year.

Ofgem notifications of market share and non-core spending obligation

2.9. In scheme year 1 Ofgem notified each participating scheme supplier of their market share for the Core Group element, market share of the non-core group element and the value of their non-core spending obligation calculation within 28 days of the WHD regulations coming in effect. This notification was sent to the supplier representative who provided the customer data notification or a nominated supplier contact for WHD.

2.10. This notification will also provide confirmation of the maximum amounts of spending each compulsory scheme supplier may count towards meeting its non-core spending obligation. Suppliers will have the flexibility to choose the exact split between the two, keeping within their overall total allowance.

2.11. For scheme year 2, 3 and 4 this notification will be provided by 14 March preceding the start of that scheme year. The notification in scheme year 2, 3 and 4 will also differ in that it will only provide an initial non-core spending obligation calculation. This is because in scheme years 2, 3 and 4, a scheme supplier's non-core spending obligations may be adjusted to recognise a supplier's own under or over spend in their non core spending obligation for the previous scheme year (for more information please see paragraphs 2.21-2.24 below). It will not be adjusted for any other reason. For scheme years 2, 3 and 4 non core spending obligations will be set on the 14 March prior to the scheme year and will not be altered after this point to reflect any potential under spend in the Core Group in the previous scheme year.

2.12. In scheme year 2, 3 and 4 Ofgem will notify each compulsory scheme supplier of its final adjusted non-core spending obligation by 30 September of each scheme year. How this adjustment will be made is detailed below in paragraphs 2.21 to 2.24.

The Core Group spending estimate

2.13. For each scheme year the Secretary of State will provide an estimate of that year's Core Group spending. For years 2, 3 and 4 this estimate will take into account Core Group spending in previous scheme years. The Secretary of State will then use this figure to determine that scheme year's total non-core spending obligation. DECC will then inform Ofgem of that determination to allow Ofgem to calculate individual non-core spending obligations for relevant suppliers (see paragraphs 2.14 to 2.20 below).

Calculating non-core spending obligations

2.14. The total aggregate non-core spending obligation for each scheme year will be determined by the Secretary of State. For scheme year 1, the Secretary of State notified Ofgem of that determination within 7 days of the WHD regulations coming into effect. For scheme years 2, 3 and 4, this determination notification will take place by 14 February before the start of the scheme year.

2.15. A scheme year's total aggregate non-core spending obligation is calculated by subtracting the Secretary of State estimate for that year's Core Group spending from the total WHD spending target for that year.

2.16. The initial total WHD spending target for each scheme year is as follows:

Scheme year 1 - £250 million

Scheme year 2 - £275 million

Scheme year 3 - £300 million

Scheme year 4 - £310 million.

2.17. However the total WHD spending targets for scheme years 2, 3 and 4 can be adjusted to account for any under or over spend in the Core Group in the previous year. This will be done by 14 February prior to the start of the scheme year and remain unaltered for the whole of the scheme year.

2.18. Once the total aggregate non-core spending obligation for a scheme year has been determined and notified to Ofgem, an individual compulsory scheme electricity supplier's initial non-core spending obligation can be calculated.

2.19. A compulsory scheme electricity supplier's non-core spending obligation is a percentage of the total aggregate non-core spending obligation for that scheme year, where the percentage is that supplier's market share as calculated in paragraphs 2.34 to 2.46.

2.20. In years 2, 3 and 4 an initial non-core spending obligation will be calculated and notified to compulsory scheme suppliers using the formulae in paragraphs 2.34 and 2.46. However these targets may be adjusted for a

supplier to reflect any allowed over or under spend in the non-core obligation during the previous scheme year by that supplier.

Adjustments for under and overspend

2.21. Adjustment can be made to a supplier's initial non-core spending obligation if that supplier has under or over spent on its non-core obligation in the previous scheme year.

2.22. Suppliers are permitted to over or under spend on their non-core spending obligation by 1% in scheme years 1, 2 and 3. Any under spend greater than 1% will result in the supplier being non compliant with the scheme's obligations. No under spend is permitted in scheme year 4.

2.23. Any permitted under spend will be added to the initial non-core spending obligation for that supplier for the following scheme year. This additional obligation will not alter the maximum spend permitted in the Legacy Spend and Industry Initiative elements (please see paragraphs 2.25 to 2.29 below for more details).

2.24. Suppliers are able to overspend on their non-core activities by any amount. However only overspend on the Broader Group, equal to or below 1% of that year's non-core spending obligation will be permitted to be used by that supplier to meet its non-core spending obligation for the following year. This overspend will be subtracted from that supplier's initial non-core spending obligation calculation for the following year, and provide that supplier's new adjusted non-core spending obligation for the following scheme year. It is this adjusted figure which is the supplier's non-core spending obligation for that scheme.

Limits on Legacy Spend and Industry Initiatives

2.25. To allow for a smooth transition from the Voluntary Agreement, the WHD scheme allows suppliers to meet part of their WHD spending obligations through providing discounted and social tariffs and through approved Industry Initiatives.

2.26. Table 2 details the maximum cap for the combined spend for legacy Spending and Industry Initiatives. Within that cap there are two further sub-caps: one for Legacy Spending, and one for Industry Initiatives. The combined total of these two sub-caps, if put together, is greater than the total combined cap allowed for the sections. Therefore suppliers will not be able to spend to the respective maximum sub-caps on both Legacy Spend and Industry Initiatives.

Table 2: Caps on spending on Legacy and Industry Initiatives

	2011- 12	2012-13	2013-14	2014-15
Total Legacy Spend & Industry Initiative Cap	£150m	£85m	£53m	£30m
Legacy Spend Cap	£140m	£70m	£35m	£0m
Industry Initiatives Cap	£30m	£30m	£30m	£30m

2.27. As the table shows, no non-core group spending is permitted as part of the WHD scheme under Legacy Spending in scheme year 4.

2.28. Each compulsory scheme electricity supplier will be set an individual maximum limit on how much of its non-core spending obligation can be achieved through measures undertaken in the Legacy Spend, Industry Initiatives and Legacy Spend and Industry Initiatives combined. The individual maximum limit for each compulsory scheme electricity supplier will be in proportion to that supplier's market share for the non-core spending obligation, as calculated in paragraphs 2.34 to 2.46.

2.29. Any spending by a compulsory scheme supplier beyond those maximum limits set in the Legacy Spend and Industry Initiatives elements will not be counted as part of its WHD non-core spending obligation.

Market share calculation for Core Group

2.30. Ofgem will use the data provided by the domestic customer number data notifications to calculate the market share of each participating scheme supplier.

2.31. Ofgem will calculate the market share of each scheme licensed electricity supplier as directed by the Reconciliation Regulations. It is envisaged that the market share formulae to be used in the Core Group element will mirror the formulae used for calculating non-core spending obligations.

2.32. As confirmed in paragraph 2.9-2.12 above, each individual licensed electricity supplier will be notified of its individual Core Group market share by Ofgem within 28 days of the WHD regulations coming into effect (for scheme year 1) or by 14 March prior to the scheme year (for scheme year 2, 3 and 4). This notification will also provide details of how the calculations were made.

2.33. A list of participating licensed suppliers will be provided to relevant parties in line with the Reconciliation Regulations.

Market share calculation for non-core spending obligation

2.34. Ofgem will use the data provided by the customer data notifications to calculate the market share of each compulsory scheme electricity supplier for the non-core element of the scheme.

2.35. For a licensed electricity supplier which is unconnected to a licensed gas supplier the equation for calculating its individual market share (ims) is as follows:

$$\text{ims}\% = \frac{\text{idc} \times 100}{\text{TDC}} \%$$

2.36. where:

2.37. idc = an individual licensed electricity supplier's number of domestic customers on 31 December preceding the scheme year (labelled "X" in the WHD regulations); and

2.38. TDC = the total number of domestic customers of all compulsory scheme electricity suppliers and scheme gas suppliers which are connected to compulsory scheme electricity suppliers on 31 December preceding the scheme year (labelled "Y" in the WHD regulations).

2.39. For a licensed electricity supplier which is not connected to any other scheme electricity supplier but is connected to one or more licensed gas supplier, an individual electricity licensee's market share (ims) is as follows:

$$\text{ims} \% = \frac{(\text{idc} + \text{tgdc}) \times 100}{\text{TDC}} \%$$

2.40. Where:

2.41. tgdc = the total number of domestic customers of all licensed gas suppliers connected to that licence electricity supplier on 31 December preceding the scheme year.

2.42. For a licensed electricity supplier connected to other scheme electricity suppliers, which are connected to one or more licensed gas supplier, an individual electricity licensee's market share (ims) is as follows:

$$\text{ims} \% = \frac{(\text{idc}/\text{tedc}) \times (\text{tedc} + \text{tgdc}) \times 100}{\text{TDC}} \%$$

2.43. Where:

2.44. tedc = the total number of domestic customers of that licensed electricity supplier and of all other licensed electricity suppliers on 31 December preceding the scheme year; and

2.45. All 3 formulae can be compressed into one single formula:

$$\text{ims} = \text{idc/TDC} + [(\text{idc/tedc}) \times (\text{tgd/TDC})]$$

2.46. For ease of internal administration and calculation, Ofgem may use the formula in paragraph 2.45.

3. Core Group

Chapter Summary

This chapter sets out the process for suppliers to submit their proposals for scheme activities to Ofgem for pre approval.

Core Group overview

3.1. A key design feature of the WHD scheme is to utilise data held by the Government in order to better target vulnerable customers who are likely to be suffering from fuel poverty or be at risk of fuel poverty. Government intends to use pension data held by the Department of Works and Pensions (DWP) in order to target vulnerable energy customers. Ofgem has a limited role to play in the Core Group element of the scheme. DECC will take a lead role in facilitating the Core Group and ensuring that all organisations involved in the administration of the Core Group fulfil their functions. For further information on this area of the scheme please contact DECC at warmhomediscount@decc.gsi.gov.uk.

3.2. Ofgem is required to undertake a number of duties in order for the Core Group element to operate. At the beginning of the scheme year Ofgem will provide DECC/Operator with a list of the suppliers who are either obligated to participate in the Core Group, or who have elected to participate, and a market share determination for each supplier. Ofgem will use the data received from customer data notification to provide a market share calculation for each participating supplier (see paragraphs 2.34 to - 2.46 above). We will then provide a total market share figure for each participating supplier. This will be done within 28 days of the WHD regulations coming into effect (for scheme year 1) or by 14 March prior to the scheme year (for scheme year 2, 3 and 4).

3.3. Once vulnerable energy customers have been identified and matched to a participating supplier, through either the data match or sweep up process, DECC, or an agent acting on its behalf, will instruct participating suppliers to provide a Core Group rebate to those customers identified. Core Group rebates can only be made to electricity account holders (either past or present).

3.4. The value of the Core Group rebate will change each scheme year as follows:

Scheme year 1 - £120

Scheme year 2 - £130

Scheme year 3 - £135

Scheme year 4 - £140

3.5. Suppliers are obligated to provide Core Group rebates to customers identified through the data match and sweep up exercises of the Core Group, unless there is an exception. Those exceptions will be determined by the Secretary of State. In this scheme providing a rebate means:

- crediting the amount of the rebate to the customer's account;
- tendering payment of that amount to the customer; or
- providing a customer who pre-pays for electricity with that amount of credit against future electricity use.

3.6. The policy intention with regards to crediting against future use is that this may include using part of the rebate to reduce debts on electricity accounts.

3.7. When a supplier provides a rebate under the Core Group, it must specify on the recipient's bill, or otherwise notify in writing, that the rebate was made under the Warm Home Discount scheme.

3.8. A supplier must provide Core Group rebates by 31 March of each scheme year if they are to be counted towards meeting that supplier's core spending obligation for that scheme year. The only exception is if the Secretary of State notifies suppliers to provide a Core Group rebate after 1 March. In this instance a supplier will have up to 30 days to provide the rebates to customers and those rebates will still count towards meeting that supplier's Core Group spending for the year for which the notification was made.

3.9. If the Secretary of State notifies suppliers to provide a Core Group rebate after the scheme year has ended, based on the data match and sweep up exercise which has occurred in the previous scheme year, the notification remains valid but the obligation is transferred to the following scheme year. For example if the Secretary of State provides the notification on 5 April 2012, based on the scheme year 1 sweep up exercise, then the obligation to make rebate payments will transfer to the supplier's scheme year 2 WHD obligation.

Reconciliation

3.10. The total cost of the rebates provided is to be shared amongst all participating licensed electricity suppliers according to their market share. An operator will be appointed to undertake the reconciliation process. DECC has indicated that it will make the amendments to Standard Licence Condition C3 of National Grid Electricity Transmission plc's Electricity Transmission Licence and the Balance and Settlement Code ('BSC') which would permit Elexon to be the operator of the reconciliation mechanism. These changes are not covered in this

guidance document and any comments on this issue should be directed through the normal BSC channels or directly to DECC. We anticipate that Ofgem will still be required to undertake certain actions to assist this process and we will provide further guidance once the process has been confirmed.

Fraud prevention

3.11. Detecting and dealing with benefit fraud is not within the scope of the WHD scheme. However, we expect suppliers to satisfy themselves and their internal auditors that Core Group rebate payments are only provided to customers identified by the Secretary of State. Suppliers will also have to assure Ofgem, and any agent acting on its behalf, that they had effective internal management controls in place to allow for such assurance to be reached. .

3.12. Where rebates are not credited directly to a customer account (such as for those customers with pre-payment meters or who have moved to another supplier) any alternative process to provide the rebate should be robust enough to minimise interception by a person other than the recipient. Ofgem will be asking all suppliers how they intend to make payments in these cases, and we will encourage suppliers to minimise the risk of cheques being fraudulently cashed.

End of year reporting

3.13. After the scheme year has ended, the Secretary of State will provide Ofgem with details for each participating supplier including how many Core Group customers were provided to each supplier on a notice in that scheme year and how many customers the energy supplier was unable to identify or was not a Core Group customer on those notices.

3.14. By the 26 May following the end of a scheme year, participating suppliers are required to provide Ofgem with confirmation that they have made Core Group rebate payments to those customers identified through the data match and sweep up exercise (subject to exceptions), that those payments were made before the scheme deadline and that Core Group customers were notified that these payments were part of the WHD scheme. If the notification for providing Core Group rebates is issued by DECC after 1 March, then Ofgem will set a new deadline for suppliers to confirm this information depending on when such a notification is issued. Suppliers are required to use the templates found in Appendix 4.

3.15. An exception will only be accepted by Ofgem as being valid if it complies with the circumstances identified by the Secretary of State. If a supplier does have any exceptions then it must confirm the number of exceptions it has, the reasons why they are exceptions and what steps it took to attempt to provide these rebates.

3.16. For the purposes of the scheme, records should be kept until 31 December 2015 when all compliance activities should be complete. However, suppliers may choose to keep records beyond this date to allow them to deal with any issues which may come to light following the end of the scheme.

3.17. Further details of how and when to make this confirmation can be found in Chapter 7 below.

4. Broader Group

Chapter Summary

This chapter outlines the Broader Group element of the scheme.

Broader Group scheme activities

4.1. The Broader Group allows suppliers to identify and target those customers they believe are suffering from or are at risk of fuel poverty, and provide them with a Broader Group rebate.

4.2. As with Core Group rebates, Broader Group rebates must be made through electricity accounts. They will also be of the same value as the Core Group rebate:

Scheme year 1 - £120

Scheme year 2 - £130

Scheme year 3 - £135

Scheme year 4 - £140

4.3. WHD regulation 20(2)(a) and 20(2)(c) details how Value Added Tax (VAT) should be applied to rebate payments when crediting an account or providing the rebate to a customer using a pre payment meter.

4.4. Suppliers must make Broader Group rebate payments by 31 March of each scheme year if it is to be counted towards meeting a supplier's non-core spending obligation. In this scheme providing a rebate means:

- crediting the amount of the rebate to the customer's account;
- tendering payment to the customer; or
- providing a customer who pre-pays for electricity with credit against future electricity use.

4.5. The policy intention with regards to crediting against future use is that this may include using part of the rebate to reduce debts on electricity accounts.

4.6. When a supplier provides a rebate under the Broader Group, it must specify on the recipient's bill, or otherwise notify in writing, that the rebate was made under the Warm Home Discount scheme.

4.7. Suppliers are able to meet all their non-core spending obligations through the Broader Group element. Suppliers are also permitted to spend above their non-core spending obligation if they choose to do so. However only a maximum of 1% of their non-core spending obligation for that year can be transferred to the following scheme year (please see paragraphs 2.21 to 2.24 above for further details).

Eligibility criteria

4.8. Suppliers are given the discretion to target vulnerable customers they believe should receive a Broader Group rebate, within the scheme's parameters that support should be given to those in fuel poverty or a fuel poverty at risk group. In order to target customers for a Broader Group rebate a supplier must set out eligibility criteria which customers must meet if they are to qualify for the Broader Group rebate.

4.9. It is important to note that no customer is entitled to a Broader Group rebate payment from their supplier, even if the customer meets the eligibility criteria set.

4.10. The WHD regulations sets out a predefined list of Government benefits which suppliers may use subsets of as their eligibility criteria for customers to qualify for Broader Group rebate payments. These benefits are split into four groups:

Table 3: Potential qualifying benefits

1. A person who receives Income Support.	and a) has a child under the age of 5 who lives with them.
	or b) receives any one of the following in addition to Income Support -child tax credit which includes a disability or severe disability element; -a disabled child premium; -a disability premium, enhanced disability premium or severe disability premium; -a pensioner premium, higher pensioner premium or enhanced pensioner premium.

2. A person who receives Income-related Employment and Support Allowance which includes a work-related activity or support component	and a) has a child under the age of 5 who lives with them.
	or b) receives any one of the following in addition to Employment and Support Allowance -child tax credit which includes a disability or severe disability element; -a disabled child premium; -a disability premium, enhanced disability premium or severe disability premium; -a pensioner premium, higher pensioner premium or enhanced pensioner premium.

3. A person who receives Income-based Jobseeker's Allowance	and a) has a child under the age of 5 who lives with them.
	or b) receives any one of the following in addition to Income-based Jobseeker's Allowance -child tax credit which includes a disability or severe disability element; -a disabled child premium; -a disability premium, enhanced disability premium or severe disability premium; -a pensioner premium, higher pensioner premium or enhanced pensioner premium.

4. A person who receives State Pension Credit (either Guarantee only, Guarantee *and* Savings, or Savings only)

4.11. Alternatively suppliers are able to choose different eligibility criteria to target customers in fuel poverty or in a fuel poverty risk group. This would include proposals to pay the partners of those who would be eligible under the criteria set out in Table 3. However in such cases we would look to ensure that appropriate measures were put in place to verify that the customer benefiting from the rebate is actually a partner of someone who would be eligible under one of the criteria set out in Table 3 if they were the account holder.

4.12. If the government benefits specified in Table 3 above are altered or replaced, we will seek clarification from DECC as to the impact those changes have on the WHD Regulations and for the WHD scheme.

4.13. Given that the Broader Group is primarily designed to provide assistance to those customers not targeted by the Core Group, suppliers are required to minimise the overlap between those customers receiving Core Group rebates and those customer receiving Broader Group rebates. In scheme years 2, 3 and 4 suppliers are not permitted to choose eligibility criteria where those meeting the criteria were wholly or mainly customers who received the Core Group rebate in the previous scheme year.

4.14. If a supplier's proposed activity uses one of the predefined criteria detailed in Table 3 above and meets the targeting requirements in paragraph 4.13 above, then Ofgem will not require any further information from the supplier to justify how it is targeting fuel poor or at risk of fuel poverty customers before pre-approving the criteria. If a supplier chooses to use its own eligibility criteria then it must provide Ofgem with sufficient evidence that the eligibility criteria proposed will wholly or mainly target customers suffering from fuel poverty or be in a group at risk of fuel poverty. If suppliers are considering choosing their own eligibility criteria then we invite them to contact our team to discuss their proposals before formally submitting a pre-approval notification.

Verification measures

4.15. Suppliers must also put in place verification measures which will determine if a customer meets the eligibility criteria set. Suppliers have the option to follow the verification measures outlined in Schedule 2 Part 2 of the regulations if appropriate. Suppliers will be required to ensure that as a minimum they are able to demonstrate to Ofgem on request evidence that suitable processes were in place to ensure the supplier complied with the requirements of the regulations to obtain:

- details of the customer's name, address and telephone number
- a declaration that the customer meets the supplier's eligibility criteria. Such declaration being obtained either in writing or verbally and must be obtained in the year in which the Broader Group rebate is paid
- an explanation of how the customer meets the supplier's criteria. This could include examples of the questions asked to determine the customer's eligibility. We may make suggestions as to the types of questions suppliers could ask if we believe it to be appropriate. However it will be at the suppliers discretion as to whether they accept our suggestions or not.

4.16. Failure to demonstrate any of the above specifications may result in further investigation by Ofgem and a supplier will be at risk of non-compliance if Ofgem is not satisfied that measures to ensure Broader Group payments have been targeted at the right people have been put in place. Similarly Ofgem may investigate and take appropriate actions in the event that the verification measures stipulated in the regulations, or otherwise agreed (see paragraph 4.18), have not been followed correctly.

4.17. If a supplier has chosen to follow the verification measures detailed in paragraph 4.15 above then Ofgem will not require any more information as to how the supplier will ensure that its Broader Group rebates are being provided to customers who meet its eligibility criteria before the activity is approved.

4.18. If a supplier chooses to propose its own verification method, it will be required to provide Ofgem with evidence demonstrating that the measures used to verify eligibility are equally as effective as the measures detailed in paragraph 4.15 above. Suppliers may wish to discuss suitable alternative criteria and measures with Ofgem's WHD Team before they make a preapproval notification.

4.19. We will continue to work with suppliers to enable them to identify ways in which they can verify eligibility. We understand that DECC and the Department of Work and Pensions (DWP) are working together to provide further information and guidance on government benefits, how they are applied and how they can be verified. We will ensure that this information is incorporated into any future revision of this document.

Fraud prevention

4.20. Whilst the Regulations do not require suppliers to prevent fraud, we will actively encourage suppliers to assess which areas in their proposals have the potential to be targeted for fraud and are considered at high-risk, in the expectation that suppliers will try to prevent any attempt to defraud the scheme.

4.21. We encourage suppliers to satisfy themselves and their internal auditors that Broader Group rebate payments have been provided in accordance with the approved eligibility criteria and verification methods. Suppliers will also have to assure Ofgem, and any agent acting on their behalf, that they had effective internal management controls in place which allowed for such assurance to be reached.

4.22. Where rebates are not credited directly to a customer account (such as for those customers with pre-payment meters or who have moved to another supplier) any alternative process to provide the rebate should be suitably robust in ensuring money is paid to the right person. Ofgem will be asking all suppliers how they intend to make payments in these cases, with the expectation that suppliers should try to minimise the risk of any cheques that are issued being fraudulently cashed.

4.23. From our engagement with suppliers we are aware of many effective examples of fraud prevention practices already undertaken by suppliers in the Voluntary Agreement and in other schemes. We would like to see those continue and extended to the WHD scheme. We have also been encouraged by some of the initial conversations we have had with suppliers with regards to potential proposals for Broader Group activities and the fraud prevention measures likely to form part of the proposals. We will continue to work with suppliers to ensure we minimise fraud risk effectively.

Sampling

4.24. If a supplier has chosen the verification method set out in the regulation and described in paragraph 4.15 above, they will be required to obtain documentary evidence verifying eligibility from at least 5% of their Broader Group customers to deter fraudulent claims for Broader Group rebates. This documentary evidence must be obtained before the rebate is provided to those customers. This evidence may come from customers themselves or from third parties who are able to verify the eligibility of the customer

4.25. In the event that third parties hold the records of documentary evidence, a supplier may be asked to demonstrate internal processes which show how they assure themselves that the third party has followed the correct procedures and have obtained this evidence.

4.26. In cases where a site visit has taken place, and documentary evidence is provided but a copy not taken, we would expect suppliers or their agents to have a system in place which can record the fact that the evidence had been provided and to collect key information from those documents. We will work with suppliers, DECC and DWP to identify what key information would be appropriate to be recorded.

4.27. Documentary evidence which is provided as part of the application process for a Broader Group rebate can be counted as part of the 5% sampling requirement.

4.28. A supplier, when offering a Broader Group rebate to a customer, must explain that the customer may be asked to provide further evidence of their eligibility before they receive the Warm Home Discount rebate. If a customer is required to provide documentary evidence of being in receipt of certain Government benefits then we would expect such proof to be a letter from DWP (an original or photocopy) confirming that the benefit has been issued in the same scheme year the customer receives the rebate. The DWP issue new letters to claimants every April, therefore the letter should provide proof that a customer has been in receipt of that benefit for the relevant scheme year.

4.29. In the event that a customer fails to provide further evidence when requested by a supplier or its agent we would not expect the supplier to provide the rebate to that customer until such evidence is provided and inform the customer accordingly.

Pre-approval process

4.30. With the exception of scheme year 1, no Broader Group spending can take place until Ofgem has pre-approved the scheme activity. Suppliers are expected to submit their scheme notifications, proposing their activity to the WHD Scheme Manager (WHD@ofgem.gov.uk) using the guidelines found in Appendix 2.

4.31. Again with the exception of scheme year 1, Ofgem will, within 28 days of receiving a scheme notification, approve the proposal, reject the proposal or make a reasonable request for additional information. If additional information is requested, then Ofgem will again provide a determination to the notification within 28 days of receiving the additional information requested. Once preapproved an activity should be conducted in line with the preapproved agreement for the spend to be eligible. If there is a problem in undertaking the Broader Group activity in line with the preapproved agreement, the supplier is advised to contact the Ofgem WHD team as soon as possible to agree possible resolutions.

4.32. In scheme year 1, Broader Group spending can take place before the activity is preapproved. However for the spending to count towards a supplier's non-core obligation then the activity must be approved by Ofgem before 31 March 2012. Also in scheme year 1, Ofgem will have more than 28 days to assess scheme notifications if the scheme notification is within 8 weeks of the scheme being enacted. If scheme notifications are submitted within this period, Ofgem will have 12 weeks from the start date of the scheme to review, assess and respond to the notification. This additional time is to allow the regulations to be fully considered by all parties and for Ofgem to finalise its guidance. This will ensure greater consistency across the pre-approval processes.

4.33. Pre-approval can be requested and given for multiple scheme years.

End of year reporting

4.34. By the 26 May following the end of each scheme year, suppliers are required to confirm the number of Broader Group rebates that have been provided in that scheme year, that the correct eligibility criteria and verification measures were used and that the required amount of sampling verification was achieved. Suppliers are required to use the template found in Appendix 5.

4.35. For the purposes of the scheme, records should be kept until 31 December 2015 when all compliance activities should be complete. However, suppliers may choose to keep records beyond this date to allow them to deal with any issues which may come to light following the end of the scheme.

4.36. Further details of how and when to make this confirmation can be found in Chapter 7 below.

5. Legacy Spend

Chapter Summary

This chapter sets out Legacy Spend element of the scheme.

Legacy Spend

5.1. This part of the scheme has been designed to allow suppliers to continue providing support to the types of customers who have benefited from social and discounted tariffs and rebates under the Voluntary Agreement. Unlike the Core and Broader Groups, supplier contributions on Legacy Spending can be made through either a customer's electricity or gas account.

5.2. Legacy Spending has been included to provide a smooth transition from the current Voluntary Agreement. The long term aim of the scheme is to increase the assistance provided through fixed rebates in the Core and Broader Groups. This will be facilitated by reducing the amount suppliers are allowed to count towards the scheme on providing legacy forms of support including discounted and social tariffs. Therefore the amount of Legacy Spending which can be counted towards WHD obligations will decrease over the four years of the scheme. Legacy Spending is therefore limited for each supplier according to the calculations detailed in paragraph 2.25 to 2.29 above.

5.3. Suppliers' Legacy Spending is also limited further in two ways. First, a supplier may only provide discounted tariffs (including social tariffs) or rebates to customers who, in that supplier's opinion meet the same eligibility criteria used by that supplier to target vulnerable customers in the last year of the Voluntary Agreement. Furthermore WHD Regulation 21(4) limits the number of eligible customers who can be assisted with discounted tariffs or rebates to the total number of eligible customers who were benefiting from discounted tariffs or rebates in the last year of the Voluntary Agreement (1st April 2010 to 31st March 2011). NB this may not be the same number of eligible customers who are actively benefiting from discounted tariffs or rebates on 31st March 2011.

5.4. For example, if Supplier A assisted 120 customers up to June 2010, lost 20 customers, and then assisted a further 100 new customers in the period up to 31st March 2011, the total number of customers assisted by the supplier in the final year of the voluntary agreement would be 220, even though the number of eligible customers actively benefiting on 31st March was 200.

5.5. This would mean that Supplier A would only be allowed to assist a maximum of 220 eligible customers in each WHD scheme year (i.e. an additional 20 eligible customers in the first year of the WHD scheme) and suppliers may choose to provide customers with rebates or discounted tariffs.

5.6. Any additional Legacy Spending a supplier may make will not count towards that supplier's non-core spending obligation for that year.

5.7. The new WHD Team within Ofgem will work with the current Voluntary Agreement Team to document the eligibility criteria used in the last year of the Voluntary Agreement, and the number of accounts benefiting from each tariff. Suppliers are also required to provide this information to Ofgem within 8 weeks of the WHD regulations coming into effect.

Valuing discounted tariffs

5.8. We propose to value social and discounted tariffs in line with the valuation process used in the last year of the Voluntary Agreement and set out in the scheme regulations. In order to assess how much a supplier has spent on these tariffs, we will compare discounted tariffs offered by a supplier with a reference tariff for each supplier. Any spending from 1 April will count towards suppliers' targets.

5.9. The reference tariff is a tariff which the supplier already offers and, as set out in the WHD regulations, meets the following characteristics:

- it must be available to all domestic customers;
- it must have been continuously available to new customers for a period not less than one year, or Ofgem must be satisfied that the supplier will make the tariff available continuously available to customers for at least one year); and
- it must not be offered with an incentive.

5.10. There will be a reference tariff for each fuel type (electricity, gas and dual fuel) and each main payment method (direct debit, payment on receipt of the bill - also known as standard credit - and pre-payment).

Pre-approval process

5.11. Legacy Spend activities are not required to be preapproved. However we advise that suppliers seek confirmation from Ofgem that their proposals for changing existing tariffs or introducing new tariffs, meet the scheme requirements (namely the eligibility criteria to be used and the number they are planning to offer remain in line with what had been available in the last year of the Voluntary Agreement).

5.12. If suppliers choose to seek confirmation from Ofgem by 14 February that their proposals for changing existing tariffs or introducing new tariffs met the scheme requirement, we will look to provide such confirmation before the start of the new scheme year.

End of year reporting

5.13. By 26 May following the end of each scheme year, suppliers are required to provide Ofgem with all necessary details required by Ofgem to value the benefits provided by a supplier's discounted tariffs. These are partially listed in Schedule 3 to the WHD regulations. If beneficial we will provide a template for suppliers to fill in towards the end of scheme year 1.

5.14. For the purposes of the scheme, records should be kept until 31 December 2015 when all compliance activities should be complete. However, suppliers may choose to keep records beyond this date to allow them to deal with any issues which may come to light following the end of the scheme.

5.15. Further details of how and when to make this confirmation can be found in Chapter 7 below.

6. Industry Initiatives

Chapter Summary

This chapter sets out the Industry Initiative element of the scheme.

Industry Initiatives

6.1. Under the Voluntary Agreement, suppliers have undertaken a number of initiatives to provide assistance to customers in fuel poverty or at risk of fuel poverty beyond direct financial support. These initiatives can be particularly helpful in targeting support at those that need it most. Under the WHD scheme, suppliers are able to meet part of their non-core spending obligation through funding certain Industry Initiatives. Spending on Industry Initiatives can be undertaken by either a licensed electricity or licensed gas supplier. However it is important to note that the WHD scheme has a number of restrictions and limits on activities which can count towards the scheme which were not in place under the Voluntary Agreement to ensure that activities which are counted are designed to benefit those in or at risk of fuel poverty. Further details on these restrictions can be found in paragraph 6.17 below.

6.2. Spending on Industry Initiatives is limited for each supplier according to the calculations detailed in paragraphs 2.25 to 2.29 above. Any additional spending a supplier may make above this limit will not count towards that suppliers WHD spending for that year.

6.3. In all scheme years, if a participating supplier would like the spending from an Industry Initiative to count towards its non-core spending obligation, then it will need to get the Initiative in question pre-approved by Ofgem's WHD Team. However in scheme year 1 a participating supplier may begin spending money on Industry Initiatives prior to going through the pre-approval process, but that spending will only be eligible to count towards a supplier's spending obligation once it has been approved by Ofgem. The supplier can seek approval and pre-approval by following the guidelines found in Appendix 3.

6.4. The benefits resulting from Industry Initiatives are required to be targeted to persons in fuel poverty or in a fuel poverty risk group. There are no restrictions in the regulation which would prevent some benefiting from a rebate or discounted tariff in the other elements of the WHD scheme from also benefiting from a particular Industry Initiative.

6.5. A proposal for an Industry Initiative may be approved by Ofgem if it is an activity identified as being permitted in the WHD regulations. These are summarised in table 3:

Table 3: Permitted Industry Initiative activities

SCHEDULE 4 Regulation 26 (1) and (2) Industry Initiatives	
<i>Type of Initiatives</i>	<i>Exceptions</i>
<p>Payments to organisations which refer to electricity or gas suppliers, or facilitate the referral of, customers who—</p> <ul style="list-style-type: none"> (a) are in fuel poverty or in a fuel poverty risk group; and (b) are, or may be, eligible for a benefit under these Regulations or for any other assistance from the supplier 	
<p>Providing, or funding the provision by other persons of—</p> <ul style="list-style-type: none"> (a) benefit entitlement checks; or (b) benefit entitlement checks and assistance in claiming benefits. 	
<p>Providing to domestic energy users, or funding the provision by other persons to domestic energy consumers of—</p> <ul style="list-style-type: none"> (a) energy efficiency measures; (b) thermal efficiency measures; (c) energy efficient appliances; or (d) microgeneration. 	
<p>Providing, or funding the provision by other persons of, energy advice to domestic consumers</p>	
<p>Training persons, or funding the training of persons, to provide energy advice to domestic consumers</p>	<p>A supplier may not count costs of training its own employees or contractors, or the employees or contractors of a company in the same group of companies as the supplier.</p>
<p>Providing assistance, or funding the provision by other persons of assistance, to reduce or cancel debts for household electricity or gas supply, where such assistance is provided as part of a package of measures aimed at providing customers with long-term relief from fuel poverty.</p>	<p>A supplier may not count costs arising from a billing error by the supplier.</p>

6.6. The following provides more detail on Ofgem's view as to how the activities listed in the regulations may be carried out - for example how suppliers may choose to work with third parties to deliver these activities. However, this is not intended to be exhaustive and suppliers are encouraged to develop innovative Industry Initiatives that help provide and target support at those most in need within the parameters set out in the regulations.

Trust funds

6.7. Trust funds refer to a trust run and funded by a supplier, or funded by the supplier and independently run by a third party. The supplier provides a sum of money that is then spent on helping individual customers or on a number of projects.

6.8. Trust funds generally offer two forms of help:

- Direct assistance to customers in debt
- Funding of third party projects aimed at customers in fuel poverty and with severe financial difficulties.

6.9. Where suppliers choose to provide support through Trust funds, they will be required to demonstrate how the outcomes of the Trust funds work will be in line with the requirements of the regulations and deliver the activities listed in the regulations.

Partnerships and other initiatives

6.10. As with the Voluntary Agreement and other energy programmes such as CERT, suppliers may choose to work with other organisations to fulfil its obligations. Such partnerships and other initiatives using third parties will count towards suppliers' non-core spend targets where they are shown to target assistance or advice to fuel poor consumers, and those vulnerable to fuel poverty.

6.11. Where suppliers choose to work with third parties, they will be required to demonstrate how the outcomes of these arrangements will be in line with the requirements of the regulations and deliver the activities listed in the regulations.

6.12. The following provides more detail on Ofgem's views of a number of the allowed activities listed within regulations. However, this is not intended to be exhaustive and suppliers are encouraged to discuss their proposals with Ofgem.

Benefit entitlement checks (BECs)

6.13. It is believed that a significant number of fuel poor and vulnerable customers are not claiming government benefits and assistance they are entitled to. Providing a benefit entitlement check (BECs) for a customer could result in that customer increasing their household income and gaining access to other forms of support. Where suppliers undertake BECs for customers who are fuel poor or vulnerable to fuel poverty, the efficient costs of providing them (but not the value of the benefits gained by the customer) will contribute towards suppliers' non-core spend targets.

Energy efficiency, thermal efficiency and energy advice initiatives

6.14. Energy efficiency and thermal initiatives (such as providing insulation, heating measures, microgeneration or installing more energy efficient appliances) will be eligible towards suppliers' non-core spend targets provided that suppliers can demonstrate true additionality above their existing statutory obligations. This is also true of services which provide energy advice to consumers. Such statutory obligations may come from other scheme, such as CERT or CESP, or from specific licence conditions such as Electricity Supply Licence Condition 27.6(b) which requires suppliers to give energy efficiency advice to customers struggling to pay their energy bills.

Debt relief

6.15. Suppliers will be able to count well targeted debt relief towards their non-core spending obligations. Suppliers will be required to demonstrate that any debt relief proposed is in addition to their licence condition requirements and adheres to the principles identified in the voluntary agreement. Debt relief would be well targeted at those at risk of fuel poverty, will be part of a holistic package of measures and not related to any billing errors etc where the customer would not have been responsible for the debt in the first instance.

6.16. In delivering debt relief, suppliers could choose to establish trust funds run and funded by a supplier, or funded by the supplier and independently run by a third party.

Limitations on spending

6.17. Spending on these activities will not count towards meeting a supplier's non-core spending obligation if:

- the activity is undertaken in order to meet existing requirements under a supplier's electricity or gas supply licence.

- the activity is being used by a supplier in order to meet spending obligations or targets imposed by another scheme (e.g. CERT, CESP, and any future obligations).

6.18. Industry Initiative proposals must also provide Ofgem with assurance that the activity will be beneficial for those in or at risk of fuel poverty, that there is sufficient monitoring in place to ensure the money is being spent correctly and the activity being proposed is offering value for money.

6.19. The Secretary of State has determined that in deciding whether a group is in fuel poverty or a fuel poverty risk group, criteria should be used to identify those who are both vulnerable *and* on a low income.

6.20. In providing value for money, we expect a scheme to be cost-effective. If we consider that the cost of a scheme outweighs the overall benefit to those who are targeted for the activity, the activity will not be counted towards a supplier's non-core obligation. For example, if the cost of training staff in providing energy efficiency advice is excessively high we will not be satisfied that the activity provides value for money. There will be a cap on suppliers' industry initiative expenditure which can be counted towards their non-core obligation.

Pre-approval process

6.21. With the exception of scheme year 1, no Industry Initiative spending can take place until Ofgem has preapproved the scheme activity. Suppliers are expected to submit their scheme notifications, proposing their activity to the WHD Scheme Manager (WHD@ofgem.gov.uk). Guidelines can be found in Appendix 3.

6.22. Again with the exception of scheme year 1, Ofgem will, within 28 days of receiving a scheme notification, approve the proposal, reject the proposal or request additional information. If additional information is requested, then Ofgem will again provide a determination to the notification within 28 days of receiving the additional information requested. Once preapproved an activity should be conducted in line with the preapproved agreement for the spend to be eligible. If there is a problem in undertaking the Industry Initiative activity in line with the preapproved agreement, the supplier is advised to contact the Ofgem WHD team as soon as possible to agree possible resolutions.

6.23. In scheme year 1, Industry Initiative spending can take place from 1 April 2011 before the activity is preapproved. However for the spending to count towards a supplier's non-core obligation then the activity must be approved by Ofgem before 31 March 2012. Also in scheme year 1, Ofgem will have more than 28 days to assess scheme notifications if the scheme notification is within 8 weeks of the scheme is enacted. If scheme notifications are submitted within this period, Ofgem will have 12 weeks to review from the start date of the scheme, assess and respond to the notification. This additional time is to allow the regulations to be fully considered by all parties and for Ofgem to finalise its guidance. This will ensure greater consistency across the pre-approval processes.

6.24. Pre-approval can be requested and given for schemes spanning more than one year.

6.25. Joint industry initiatives, undertaken by one or more supplier are permitted under the WHD scheme. However the regulations require each individual supplier to submit their own proposals and end of year report (even if much of the information is duplicated between suppliers). However we are able to discuss such initiatives with third parties and advise them on how the proposals can be formulated, once we have received confirmation from one or more supplier that they wish us to do so.

6.26. We are also able to meet with third parties looking to work with suppliers on an Industry Initiative, on the understanding that we can not instruct suppliers what proposals to develop and/or submit for pre-approval. We would look to provide advice on how we interpret the requirements of the WHD scheme.

Fraud prevention

Monitoring spend (internal)

6.27. Ofgem will seek assurance from suppliers that the level of spending they declare in their end of year reporting is justified and has only been used for the purpose of the activities outlined in Schedule 4 of the Regulations Ofgem may need evidence of accurate record management to verify that double counting with other schemes, such as CERT, or any other type of misreporting has not occurred. Failure to provide such evidence may result in that spend not being eligible under the WHD scheme and the supplier to be found in non-compliance of their obligations. External auditors may seek evidence of cross-checking as an extra assurance that double-counting with other schemes has not occurred. Further information on the use of external auditors can be found in Chapter 7.

Monitoring spend (third party)

6.28. Ofgem must be satisfied that a supplier's proposed activity will benefit those in fuel poverty or those at risk of fuel poverty. We recognise that suppliers may appoint third parties or engage in partnerships with organisations to effectively administer Industry Initiative activities. We would expect suppliers to demonstrate reasonable caution when choosing a third party to carry out any of their functions. In choosing to engage in such partnerships Ofgem must be satisfied that there are adequate controls and oversight to ensure the money is spent correctly.

6.29. Adequate controls on third party partners must include detailed instructions from suppliers to third party partners as to what the money must be spent on, relevant scheme restrictions, appropriate reporting and confirmation

that the money was spent correctly by a suitable representative of the third party partner.

6.30. Suppliers must have activities pre-approved by Ofgem before undertaking them, subject to the allowances made in year 1. Failure to propose measures that are suitably robust in delivering activities to the right people may mean that the activity is not given pre-approval, as we may not be assured that the money will benefit those suffering from fuel poverty or at risk of fuel poverty. Suppliers are advised to discuss their proposals with Ofgem and seek advice as to the types of measures that we would expect to be in place for an activity.

6.31. For the avoidance of doubt, if a supplier uses a third party, the ultimate responsibility for ensuring adequate controls and compliance of the activity rests with the supplier.

End of year reporting

6.32. By 26 May following the end of each scheme year, suppliers are required to provide Ofgem with confirmation of how much spending has occurred on the Industry Initiatives that have been preapproved for use in that scheme year. Suppliers are required to use the template found in Appendix 6.

6.33. Suppliers must also provide any assurance stipulated by Ofgem when we preapproved the scheme activity.

6.34. All spending figures provided in the end of year report should exclude any Value Added Tax (VAT). This is in line with the reporting requirements in the Voluntary Agreement.

6.35. For the purposes of the scheme, records should be kept until 31 December 2015 when all compliance activities should be complete. However, suppliers may choose to keep records beyond this date to allow them to deal with any issues which may come to light following the end of the scheme.

6.36. Further details of how and when to make this confirmation can be found in Chapter 7 below.

7. Reporting and Compliance

Chapter Summary

This chapter outlines the process for suppliers to submit end of year reports.

End of year reporting

7.1. All participating licensed electricity suppliers are required to provide confirmation of their compliance with the non-core spending obligation by 26 May following the end of each scheme year. The same deadline applies to Core Group obligations, unless Core Group notifications are made after 1 March of a scheme year. If this is the case then suppliers will be required to confirm their compliance with Core Group obligations within 12 weeks of the Core Group notification being made.

7.2. In their end of year report participating licensed gas suppliers are required to provide confirmation of any WHD activities they have undertaken, and how their spend should be allocated to connected licensed electricity suppliers.

7.3. This confirmation must be in written form, using the template found in Appendices 4, 5 and 6, and be signed by an authorised representative of the supplier. Ofgem will also require confirmation that the money spent and the processes followed by individual suppliers are in line with the scheme regulations and any conditions put in place during the pre-approval process. Ofgem may issue further templates if this would be beneficial in the reporting phase of the scheme.

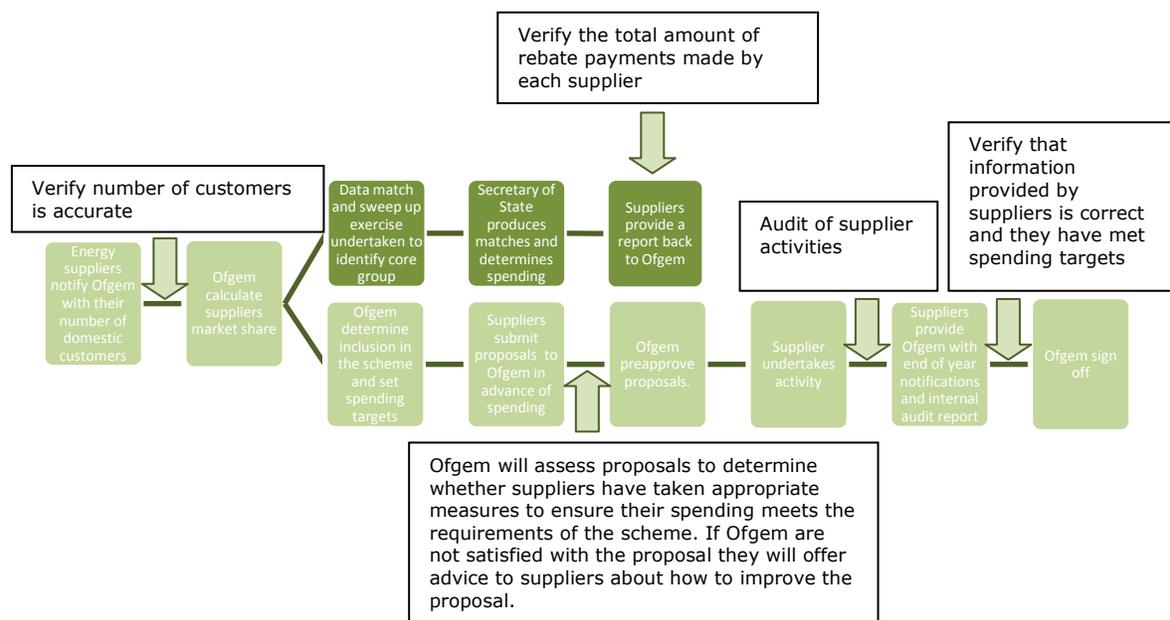
7.4. Data provided by suppliers to Ofgem following the end of the scheme year should be fully audited by a reputable organisation that is independent of the company management. This may include a company's own internal auditors. To carry out such an audit, a company does not have to hold Consultative Committee of Accountancy Bodies (CCAB) qualifications; however it needs to be competent to perform such functions. Ofgem will be specifically looking for confirmation and assurance that compliance has been met on the following areas:

Scheme Element	Summary of confirmation required in end of year reporting
Core Group	All Core Group rebates provided to all customers identified by the Secretary of State by the deadline set, subject to any exceptions.
	All Core Group customers were notified, either through their bill or in writing that the rebate payment was made under the WHD scheme.
	Exceptions reported in line with those identified by the Secretary of State.
Broader Group	The total number of Broader Group rebates provided.
	All Broader Group customers were notified, either through their bill or in writing that the rebate payment was made under the WHD scheme.
	The approved eligibility criterion was used.
	The approved verification method was used
	The supplier has undertaken a sufficient level of sampling and at least 5% of rebate recipients successfully provided documentary evidence that they met the eligibility criteria, or had their eligibility confirmed via an appropriate third party.
Legacy Spend	Total number of eligible domestic accounts benefiting from discounted tariff and rebates.
	Eligibility used to access discounted tariff and rebates.
	Data provided in accordance with Schedule 3 of the WHD regulations is correct.
Industry Initiatives	Total eligible spend.
	Activities undertaken in line with preapproval agreement

Ofgem's audits

7.5. Ofgem are responsible for auditing specific areas of the WHD scheme and ensuring suppliers activities comply with their obligations under the scheme. This will not preclude DECC or other administrators undertaking their own auditing of the scheme for those areas where they have greater oversight and responsibilities.

7.6. Audits are scheduled to take place on an annual basis. Below is a diagram illustrating where checks will take place:



7.7. There will be four parts to the auditing of the WHD scheme:

- Suppliers undertaking their own internal audit processes to confirm compliance
- Ofgem's Fraud and Compliance Manager checking suppliers have complied with the scheme
- Ofgem employing external auditors to check supplier activity and reporting to determine compliance
- Ofgem employing auditors to check our own internal systems and processes to ensure they are appropriate for administering the scheme and determining compliance.

7.8. Suppliers' Internal Audits are expected to review the adequacy and effectiveness of arrangements and controls they have put in place to manage risks associated with the WHD scheme. Internal auditors should verify that rebate payments/obligation spending has actually taken place, and that the processes agreed have been followed.

7.9. Ofgem will appoint an independent auditor to carry out audits of suppliers' activities under the scheme and determine their compliance with the WHD obligations. Where such audits require site visits, suppliers will be given advance notice of such a visit. Site visits will normally be restricted to supplier's premises unless other sites are specifically identified in the pre-approval agreement. The Auditor will be expected to ascertain whether:

- Supplier activities are being conducted in the manner which has been agreed at the pre-approval stage and in a manner which is compliant with the WHD Order and WHD guidance documents
- Information provided by suppliers is correct

- Processes suppliers have in place to manage their schemes are robust.
- Corrective and preventative measures have been put in place, if any issues have been identified
- Timelines have been adhered to.

7.10. Ofgem will employ trained internal auditors to do an audit of Ofgem's internal systems and processes in place for administering the Warm Home Discount scheme and will determine whether or not these are adequate.

8. Dispute Resolution

Chapter Summary

This chapter outlines the complaints process in suppliers can use should they wish to challenge a decision taken by Ofgem.

Complaints about Ofgem

8.1. If a supplier is unhappy with the way it has been dealt with or unhappy with the way in which Ofgem has reached a decision or how Ofgem operates, then they should write to:

Ofgem Complaints
Ofgem E-serve
Ofgem
9 Milbank
London
SW1P 3GE

8.2. A complaint will be acknowledged within two working days. Ofgem will write to the complainant within 10 working days to inform it of the outcome. If it is not possible to get back to the complainant in that time, Ofgem will write to update the complainant on the progress within 10 working days.

8.3. If, after this process, a Licensee is still unhappy, it should write to the Senior Information Risk Officer (SIRO) at the address above, who will investigate the complaint further. The Licensee will receive a response within 10 working days.

8.4. If a Licensee is still not satisfied, it should take the complaint to the Parliamentary Ombudsman who carries out independent investigations into complaints about public bodies. If the complaint is found to be justified, the Ombudsman can recommend that Ofgem provides a remedy.

8.5. Details of how to make a complaint to the Parliamentary Ombudsman can be found on their website at www.ombudsman.org.uk.

Appendices

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Appendix 1 - Timeline of confirmed key WHD scheme dates and deadlines

Scheme Year	Responsible Party	Activity	Deadline
1	DECC	Provide non core spending obligation target for scheme year 1	Friday 8 April 2011
1	All licensed electricity suppliers and license gas suppliers connected to a licensed electricity supplier	Provide customer data notification to Ofgem	Friday 15 April 2011
1	All non compulsory licensed electricity supplier	Notify Ofgem of their decision to join the Core Group if they wish to do so	Friday 15 April 2011
1	Ofgem	Notify relevant suppliers of non core market share and initial non core spending obligation	Friday 29 April 2011
n/a	All suppliers involved in last year of Voluntary Agreement	Provide end of year reports to Ofgem's Social Policy team for last year of Voluntary Agreement	Monday 16 May 2011 (deadline and action not part of the WHD requirements)
1	All suppliers involved in last year of Voluntary Agreement	Provide Ofgem with Legacy Spend details relating to the last year of the Voluntary Agreement.	Friday 27 May 2011
2	All licensed electricity suppliers and license gas suppliers connected to a licensed electricity supplier	Provide customer data notification to Ofgem	Tuesday 14 February 2012
2	All non compulsory licensed electricity supplier	Notify Ofgem of their decision to join the Core Group if they wish to do so	Tuesday 14 February 2012
2	DECC	Provide non core spending obligation target for scheme year 2	Tuesday 14 February 2012
2	Ofgem	Notify relevant suppliers of non core market share and initial non core spending obligation	Wednesday 14 March 2012
1	All compulsory suppliers	Submit end of year reports	Saturday 26 May 2012
2	Ofgem	Notify relevant suppliers of adjusted non core spending obligation (following confirmation of scheme year 1 over/under spend by relevant supplier)	Sunday 30 September 2012

Appendix 2 - Pre-approval guidance for Broader Group

Broader Group pre-approval guidance

When submitting a scheme notification for pre-approval, suppliers should include the following details in their proposals.

Eligibility

For suppliers using the pre-determined criteria set out in Schedule 2 Part 1 of the WHD Regulations:

- Details of the qualifying state benefits the customer receives to be eligible for the Broader Group rebate with reference to Part 1, Schedule 2 of the WHD regulations
- Confirm that the activity will not wholly or mainly target those being targeted in the Core Group
- Outline how the rebate payment will be made for each type of customers (direct debit, pre payment meters, etc)
- Outline how you will notify the customer of the rebate, and explain that it has been made under the WHD scheme.

For suppliers using their own criteria:

- Details of the proposed criteria to be used (e.g. state benefits, other income indicators, referral process)
- Confirmation that these criteria targets those in fuel poverty/at risk of fuel poverty
- Confirm that the activity will not wholly or mainly target those being targeted in the Core Group
- Outline how the rebate payment will be made for each type of customers (direct debit, pre payment meters, etc)
- Outline how you will notify the customer of the rebate, and explain that it has been made under the WHD scheme.

Verification Measures

For suppliers using the verification measures outlined in Schedule 2 Part 2 of the WHD Regulations:

- Provide details of the type of customer declaration (that customers are required to provide to confirm their eligibility) you will request and how you will provide assurance to Ofgem at the end of the year that this has been done
- Provide details of how you will inform the customer that they may need to provide evidence of eligibility
- Outline how you will obtain documentary evidence of at least 5% of Broader Group customers' eligibility and how you will provide assurance to Ofgem at the end of the year that this has been done.

For suppliers proposing their own verification measures:

- Provide details of the proposed verification measures and confirm how they are at least as effective as the verification measures outlined in Schedule 2 Part 2 of the WHD Regulations
- Confirm how customers will be required to confirm their eligibility and how you will provide assurance to Ofgem at the end of the year that this has been done
- Provide details of any sampling and/or other fraud prevention measures to be used.

Overall

- Outline internal management controls to ensure the rebates are made as intended and in line with the scheme regulations.

Appendix 3 - Pre-approval guidance for Industry Initiatives

Industry Initiatives pre-approval guidance

When submitting a scheme notification for pre-approval, suppliers should include the following details in their proposals.

- Name of Industry Initiative
- Supplier's own reference (if applicable)
- Details of the type of Industry Initiative to be carried out with reference to the first column of the table in Schedule 4 of the WHD Regulations
- Confirm that the activity does not fall within an exception specified in the second column of the table and meets WHD Regulation 26 (2)
- Outline how the initiative will seek to ensure that the benefits are provided to persons wholly or mainly in fuel poverty or in a fuel poverty risk group
- Name of partner organisations and supplier relationship with that organisation (if applicable)
- Demonstrate value for money with reference to one or more of the following:
 - estimate total spend on the initiative;
 - estimate number of customers to receive benefits from the initiative;
 - estimate value of that benefit
- Outline internal management controls to ensure the money is spent as intended and in line with the scheme regulations.

Appendix 4 - Draft template for Core Group reporting

Warm Home Discount (WHD) end of year notifications

CORE GROUP

Energy Company Name:		
Licensee Names and Licence Numbers		
Scheme Year:		

Total number of customers matched	
Total number of rebates provided	
Total number of exceptions	
Details of each exception and measures taken to provide the rebate.	

Declarations

I can confirm that the information above is accurate and has been verified by an internal audit process.

I can confirm that Core Group customers were notified that the rebate was provided as part of the Warm Home Discount scheme (as required by Regulation 7 (5) of the WHD Regulations).

Signed Date.....

Name Position

Appendix 5 - Draft template for Broader Group reporting

Warm Home Discount (WHD) end of year notifications

BROADER GROUP

Energy Company Name:		
Licensee Names and Licence Numbers		
Scheme Year:		

Broader Group activity name		
Supplier reference (optional)		
Ofgem reference		
Total number of rebates provided		
Total number of rebates provided following documentary evidence being provided		
% of rebates provided following documentary evidence being provided		
How many of the rebate were provided by:	Number	%
Crediting a customer's electricity account		
Tendering payment to the customer		
Providing customers who use PPM with credit against future electricity use.		

Declarations

I can confirm that the information above is accurate and has been verified by an internal audit process.

I can confirm that Broader Group customers were notified that the rebate was provided as part of the Warm Home Discount scheme (as required by Regulation 20 (4) of the WHD Regulations).

I can confirm that the Broader Group activity was carried out in line with the eligibility criteria proposed and agreed with Ofgem.

I can confirm that the verification measures used are in line with the measures proposed and agreed with Ofgem.

I can confirm that the internal controls proposed and agreed with Ofgem were in place and utilised effectively.

Signed Date.....

Name Position

Appendix 6 - Draft template for Industry Initiatives

Warm Home Discount (WHD) end of year notifications

Industry Initiative

Energy Company Name:		
Licensee Names and Licence Numbers		
Scheme Year:		

Industry Initiative activity name	
Supplier reference (optional)	
Ofgem reference	
Total spend	

Declarations

I can confirm that the information above is accurate and has been verified by an internal audit process.

I can confirm that the Industry Initiative activity was carried out, including internal management controls, in line with the pre-approved agreement with Ofgem.

I can confirm that the spending was not:

(a) incurred pursuant to a requirement in any other enactment, or in an electricity supply or gas supply licence;

(b) counted by any scheme supplier towards a spending obligation or target imposed by any other enactment, or by an electricity supply or gas supply licence; or

(c) falls within an exception in the second column of the table in Schedule 4 to the WHD Regulations.

Signed Date.....

Name Position

Appendix 7 - The Authority's Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority ("the Authority"), the regulator of the gas and electricity industries in Great Britain. This appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute (such as the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Acts of 2004, 2008 and 2010) as well as arising from directly effective European Community legislation.

1.3. References to the Gas Act and the Electricity Act in this appendix are to Part 1 of those Acts.² Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This appendix must be read accordingly.³

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

1.5. The Authority is generally required to carry out its functions in the manner it considers is best calculated to further the principal objective, wherever appropriate by promoting effective competition between persons engaged in, or commercial activities connected with,

- the shipping, transportation or supply of gas conveyed through pipes
- the generation, transmission, distribution or supply of electricity
- the provision or use of electricity interconnectors.

1.6. Before deciding to carry out its functions in a particular manner with a view to promoting competition, the Authority will have to consider the extent to which the interests of consumers would be protected by that manner of carrying out those

² Entitled "Gas Supply" and "Electricity Supply" respectively.

³ However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

functions and whether there is any other manner (whether or not it would promote competition) in which the Authority could carry out those functions which would better protect those interests.

1.7. In performing these duties, the Authority must have regard to:

- the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met
- the need to secure that all reasonable demands for electricity are met
- the need to secure that licence holders are able to finance the activities which are the subject of obligations on them⁴; and
- the need to contribute to the achievement of sustainable development.

1.8. In performing these duties, the Authority must have regard to the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.⁵

1.9. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- promote efficiency and economy on the part of those licensed⁶ under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems; protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity; and secure a diverse and viable long-term energy supply, and shall, in carrying out those functions, have regard to the effect on the environment.

1.10. In carrying out these functions the Authority must also have regard to:

- the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- certain statutory guidance on social and environmental matters issued by the Secretary of State.

⁴ Under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Acts in the case of Electricity Act functions.

⁵ The Authority may have regard to other descriptions of consumers.

⁶ Or persons authorised by exemptions to carry on any activity.

1.11. The Authority may, in carrying out a function under the Gas Act and the Electricity Act, have regard to any interests of consumers in relation to communications services and electronic communications apparatus or to water or sewerage services (within the meaning of the Water Industry Act 1991), which are affected by the carrying out of that function.

1.12. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation⁷ and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

⁷ Council Regulation (EC) 1/2003.

Appendix 8 - Glossary

B

BEC

Benefit entitlement check

C

CERT

Carbon Emissions Reduction Target

CESP

Community Energy Savings Programme

CSR

Corporate Social Responsibility

D

DECC

Department of Energy and Climate Change

DD

Direct Debit

DWP

Department for Work and Pensions

P

Prepayment meter (PPM)

Prepayment meters currently use electronic tokens, keys or cards to enable an amount of energy to be bought by the consumer to be used. The consumer needs to be provided with a network of outlets where tokens can be purchased or card and keys can be charge up. This network of outlets needs to be linked to a payment settlement system for suppliers.

Priority Service Register (PSR)

Suppliers are required by their licence to establish and maintain a list of domestic customers who by virtue of being of pensionable age or disabled or chronically sick require information and advice in respect of services specified in the licence.

S

SC

Standard Credit

Appendix 9 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

Andrew MacFaul
Consultation Co-ordinator
Ofgem
9 Millbank
London
SW1P 3GE
andrew.macfaul@ofgem.gov.uk