

Warm Home Discount: Amendments to Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers [version 3]

Draft Guidance

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Overview

This draft document provides **amendments** to the existing guidance on:

- how we'll perform our duties under the Warm Home Discount (WHD) scheme.
- how we'll interpret our functions in relation to the WHD scheme.
- what licensed electricity suppliers and licensed gas suppliers will need to comply with their obligations under the WHD scheme.

We're seeking feedback on the changes we're proposing. Please send us your thoughts in writing by 30 April 2014. Note that our functions under the WHD scheme are prescribed in legislation, so we can't change our approach to them.

This document supplements the Warm Home Discount: Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers (version 2), and takes into account amendments to the WHD legislation. We have also made some other minor amendments to clarify the WHD scheme administration.

Context

The Energy Act 2010 gives the secretary of state powers to make regulations which introduce one or more support schemes to help reduce fuel poverty. These powers have been exercised through the Warm Home Discount Regulations 2011 to establish the WHD scheme.

Section 13 of the Energy Act 2010 obliges us to review the operation of any such support scheme and suppliers' compliance with it.

Our amendments to the current guidance seek to further explain our duties and functions in relation to the WHD scheme, clarify how we'll undertake our duties and provide instructions for how Compulsory Scheme Electricity Suppliers can send us information to comply with their scheme requirements.

Associated documents

- The Warm Home Discount Flexibility for Higher Spending
<https://www.gov.uk/government/consultations/warm-home-discount-flexibility-for-higher-spending>
- WHD Guidance version 2
<https://www.ofgem.gov.uk/ofgem-publications/58947/warm-home-discount-supplier-guidance-version-2-2013.pdf>
- The Warm Home Discount Regulations
http://www.legislation.gov.uk/uksi/2011/1033/pdfs/uksi_20111033_en.pdf
- The Warm Home Discount (Reconciliation) Regulations 2011
http://www.legislation.gov.uk/uksi/2011/1414/pdfs/uksi_20111414_en.pdf
- The Disclosure of State Pension Credit Information (Warm Home Discount) Regulations
http://www.legislation.gov.uk/uksi/2011/1830/pdfs/uksi_20111830_en.pdf

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Executive Summary

Introduction

This document describes our proposed amendments to the existing guidance to suppliers the 'Warm Home Discount: Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers (version 2)'.

The chapters we are changing are:-

- **Chapter 2, Notification and target setting.** The changes relate specifically to amendments of the WHD regulations resulting from the government's changes to the amount that a supplier can carry forward from scheme year 3 to scheme year 4.
- **Chapter 4, Broader Group.** The amendments provide clarification on the approval process, low income threshold, pensionable age and information required on customers receiving more than one WHD rebate.
- **Chapter 6, Industry Initiatives.** The amendments focus on clarification of what we mean by "wholly or mainly".
- **Chapter 7, End of Year reporting.** We explain the changes we are making to the End of Year reporting template which is appended in Annex 3.

We don't propose changes to the chapters on Core Group, Legacy Spending, audit and fraud prevention, and dispute resolution.

Feedback

For these changes we would like feedback on the clarity and the level of detail in the guidance.

Any responses should be sent by letter or email by Wednesday 30 April 2014. Please send them to Barbara Birrell, Ofgem, Cornerstone, 107 West Regent St, Glasgow, G2 2BA, or to our WHD team at WHD@Ofgem.gov.uk

1. Introduction

1.1. The purpose of this document is to engage with stakeholders on the changes we propose to the WHD guidance document version 2. This document should be used as guidance until the final version is published.

1.2. We are changing the guidance for two reasons:

- to take account of recent amendments to the Warm Home Discount Regulations 2011. These give suppliers greater flexibility for higher spending on their noncore obligations.
- to provide further information on existing aspects of the scheme.

Proposed amendments

1.3. Our changes relate to 'Warm Home Discount: Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers (version 2)'. We call this 'WHD Guidance v2' in the rest of this document. We plan to alter these sections:

- Chapter 2, Notification and target setting
- Chapter 4, Broader Group
- Chapter 6, Industry Initiatives
- Chapter 7, End of Year reporting

1.4 We don't propose changes to the chapters on Core Group, Legacy Spending, audit and fraud prevention, and dispute resolution.

1.5 This is a guidance document only. The onus is on suppliers to ensure that they are aware of the requirements of the Warm Home Discount Regulations 2011 (as amended) and related legislation.

2. Notification and target setting

Chapter summary

Our amendments reflect the update to the WHD Regulations resulting from the consultation on flexibility for higher spending. The changes relate to the extended banking that suppliers are allowed in scheme year 3.

Adjustments for under and overspend

2.1 Paragraph **2.36** of WHD Guidance v2 **to be revoked:**

“Compulsory Scheme Electricity Suppliers (CSEs) are permitted to over or underspend on their noncore spending obligation by 1% in scheme years 1, 2 and 3. Any underspend 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.”

2.2 Paragraph **2.36** of WHD Guidance v2 **to be replaced by** – “CSEs are permitted to over or under spend on their noncore spending obligation in scheme years 1, 2 and 3. Any underspend greater than 1% will result in the supplier being non-compliant with the scheme's obligations. **For scheme year 3, as a result of Warm Home Discount (Amendment) Regulations 2014, a CSES can overspend up to 34.0%, which will be subtracted from its scheme year 4 noncore obligation (see paragraph 2.37 and 2.38).** No underspend is permitted in scheme year 4.”

2.3 Paragraph **2.37** of WHD Guidance v2 **to be revoked:**

“Any permitted under spend will be added to the initial noncore spending obligation for that CSES for the following scheme year. This additional obligation will not alter the maximum spend permitted in the Legacy Spending and Industry Initiative elements (please see paragraphs 2.40 to 2.44 below for more details).”

2.4 Paragraph **2.37** of WHD Guidance v2 **to be replaced by** – “Any permitted underspend will be added to the initial noncore spending obligation for that CSES for the following scheme year. This additional obligation will not alter the maximum spend permitted for Industry Initiatives (see paragraphs 2.40 to 2.44 for more details).”

2.5 Paragraph **2.38** of WHD Guidance v2 **to be revoked:**

“CSESs are able to overspend on their noncore activities by any amount. However it is only the overspend on the Broader Group, equal to or up to 1% of that year's noncore spending obligation that will be permitted to be used by a CSES to meet its noncore spending obligation for the following year. This overspend will be subtracted from a CSES's initial noncore spending obligation calculation to provide an adjusted noncore spending obligation for the following scheme year.”

2.6 Paragraph **2.38** of WHD Guidance v2 **to be replaced by** – “CSESs can overspend on their noncore activities by any amount. However, a CSES can use only overspend generated through the broader group up to **34.0% of scheme year 3's noncore spending obligation to meet its noncore spending obligation for scheme year 4**. Any overspend will be subtracted from a CSES's initial noncore spending obligation calculation to provide an adjusted noncore spending obligation for scheme year 4.”

3. Broader group

Chapter summary

Our amendments to this chapter reflect the clarification in practice that have occurred since the last review. Mainly the changes are to improve understanding of when spend is counted toward a supplier's noncore obligation, thresholds for low income approval process and pensionable age and use of information.

Broader Group scheme activities

3.1 Paragraph **4.5** of WHD Guidance v2 **to be revoked:**

"CSES are able to meet all their noncore spending obligations through the Broader Group element. CSESs are also permitted to spend above their noncore spending obligation if they choose to do so. However, only a maximum of 1% of overspend for that year can be transferred to the following scheme year (please see paragraphs 2.35 to 2.39 above for further details)."

3.2 Paragraph **4.5** of WHD Guidance v2 **to be replaced by** – "CSES can meet all their noncore spending obligations through the broader group element. They can also spend above their noncore spending obligation if they choose. **For year 3 up to a maximum of 34.0% of overspend can be transferred to scheme year 4** (see paragraphs 2.35 to 2.39 for further details)."

Approval process

3.3 Paragraph **4.10** of WHD Guidance v2 **to be supplemented** – "Approval for Broader Group schemes can be requested and given for more than one scheme year".

3.4 Paragraph **4.10 (A) addition** – "Approval of a CSES's Broader Group, including the estimated spend, does not mean that the spend has been counted as the CSES's Broader Group spend, or has been counted toward the CSES's noncore obligation, or that the CSES has been found to comply with the WHD Regulations. Once the End of Year compliance checks have been completed, CSES's will be informed of their spend and any subsequent adjustments by September 30th."

Broader Group criteria

3.5 Paragraph **4.15** of WHD Guidance v2 **to be supplemented** – "In scheme years 2 to 4 CSESs must ensure customers meeting the criteria will wholly or mainly be persons who were not Core Group customers in the previous scheme year

(regulation 19(6)). To minimise the potential for duplication between the Broader Group and the Core Group some CSESs may decide not to include customers on Pension Credit. CSESs should monitor the duplication between the Broader Group and Core Group to satisfy themselves that regulation 19 (6) is being adhered to.”

3.6 Paragraph **4.15 (A) addition** – “The information that CSES has to facilitate the provision of Core Group rebates should also be used to help reduce the possibility of a customer account receiving more than one WHD rebate in each scheme year.”

3.7 We’ve added to the end of year template a request for information on the number of customer accounts receiving more than one WHD rebate (ie two Broader Group rebates or one Broader Group rebate and one Core Group rebate).

3.8 Paragraph **4.16** of WHD Guidance v2 **to be supplemented** –“**Low Income:** We will check the proposed eligibility criteria to ensure that the criteria clearly target those on low income, and that the process or methodology adopted by the CSES ensures that the source(s) or indicators of the low income are being recorded and that documentary evidence confirming eligibility is ‘readily available’.”

3.9 Paragraph **4.16 (A) addition** – “The low income threshold is aligned to the government’s child tax credit threshold.”

3.10 Paragraph **4.17** of WHD Guidance v2 **to be supplemented** – “**Vulnerability:** CSESs may revert to their Priority Services Register or to criteria developed as part of their voluntary agreement. This in itself is not enough to prove vulnerability for the purposes of the WHD scheme. We prefer the vulnerability criteria to be clearly itemised and specified, with explanations for their inclusion.”

3.11 Paragraph **4.17 (A) addition** – “For vulnerability associated with older people, the minimum age threshold should be the same as the government’s pensionable age (for women) as at April of the relevant scheme year.”

4. Industry Initiatives

Chapter Summary

Our amendments to this chapter reflect the clarification in practice that have occurred since the last review. Mainly the changes are to improve understanding of when spend is counted toward a supplier's noncore obligation and on "wholly or mainly" in relation to targeting.

Approval process

4.1 Paragraph **6.7** of WHD Guidance v2 **to be supplemented** – "Approval can be requested and given for schemes spanning more than one year, up to and including scheme year 4."

4.2 Paragraph 6.7 (A) **addition** – "Approval of a CSES's Industry Initiative, including the estimated spend, does not mean that the spend has been counted as the CSES's Industry Initiative spend, or has been counted toward the CSES's noncore obligation, or that the CSES has been found to comply with the WHD Regulations. Once the End of Year compliance checks have been completed, CSES's will be informed of their spend and any subsequent adjustments by September 30th."

Targeting

4.3 Paragraph **6.21** of WHD Guidance v2 **to be amended and supplemented** – "The Regulations state that 'as far as reasonably practicable, that the benefits provided are wholly or mainly to persons in or at risk of fuel poverty'. We therefore need to be assured that the initiative is targeted in this way. Fuel poor are those people/households who are generally either:-

- low income (DECC impact statement shows that 90% of people/households on low income are also fuel poor);
- low income and vulnerability;
- or low income and spend >10% of their income on energy."

4.4 Paragraph **6.21 to be replaced by** – "The regulations state that 'as far as reasonably practicable, that the benefits provided are wholly or mainly to persons in or at risk of fuel poverty'. We take 'wholly or mainly' to mean **significantly more than half** of the service's customers being fuel poor or at risk of fuel poverty. We don't intend to set a minimum threshold but will expect CSESs to show that a significant proportion of a service's customers are fuel poor or at risk of fuel poverty. For ongoing Industry Initiatives we will encourage CSESs to review targeting to optimise the number of fuel poor benefiting from the service. We therefore need to be assured that the initiative is targeted in this way.

Fuel poor are those people or households who are generally either:

- low income (DECC's impact statement shows that 90% of people and households on low income are also fuel poor)
- low income and/or vulnerable
- low income and spend more than 10% of their income on energy."

5. End of Year reporting

Chapter summary

This chapter summarises and explains the changes that are proposed to in End of Year reporting template, which relate to additional information for Core Group reporting and Legacy Spending.

5.1 The guidance in **paragraph 7.1** provides suppliers with the timescales for submission of the End of Year reports. This is being **supplemented** with the following - CSEs are expected to submit accurate and correct information. If we require clarification or additional information we will expect this to be provided within 15 working days which will be used to inform our final determination.

5.2 We intend to alter the end of year reporting templates, summarised below. You can find the new documents in Annex 3: End of Year Reporting Template.

Core Group and Broader Group rebates

Rebates

5.3 In relation to paragraph **7.5** of WHD Guidance v2 we have inserted in the End of Year template a line asking a CSES to state the number of rebates paid in scheme year 3 as a result of a scheme year 3 instruction from the secretary of state. We also ask CSEs to provide the number of rebates paid in scheme year 3 as a result of a scheme year 2 instruction from the secretary of state.

5.4 For paragraph **7.8 and 7.9** of WHD Guidance v2 we have inserted in the End of Year template that a request for CSEs to tell us how exceptions are divided between 'matched' and 'unmatched'.

5.3 We are requesting information on the number of Broader Group customers receiving more than one WHD rebate.

Legacy Spending tariffs

Tariff details

5.4 Regarding paragraph **7.25** of WHD Guidance we ask in the End of Year template that CSEs confirm that the legacy tariff has ceased, and to tell us when this happened.

Appendices

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Appendix 1 – stakeholder feedback

1.1. We'd like to hear your views on this document. We'd particularly like feedback on these questions:

1. Do you have any comments about the overall tone and content of the guidance?
2. Are the proposed amendments to the guidance easy to read and understand? Could they have been better written?
3. Does the guidance document provide enough detail? If not, where is more detail needed, and why?
4. Do you have any other comments on the changes we intend to make to the guidance?

1.2. Our role and functions under the WHD scheme are prescribed by legislation. As such, please bear in mind that we are not in a position to change our approach to these matters.

1.3. Any responses should be made in writing **by Wednesday 30 April 2014**. We'd prefer it if you sent them both electronically and on paper. They should be sent to our WHD team at WHD@Ofgem.gov.uk or in writing for attention of Barbara Birrell, Ofgem, Cornerstone, 107 West Regent St, Glasgow, G2 2BA

1.4. Unless marked confidential, all responses will be published in our library and on our website, www.ofgem.gov.uk. You may ask us to keep your response confidential. We'll respect this request, subject to any obligations to disclose information, for example under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. If you'd like your response to remain confidential, clearly mark the document to that effect and include the reasons for confidentiality. Please restrict confidential material to the appendices to your response.

1.6. Once we've considered the responses to this consultation, we intend to publish a final guidance document by end of May 2014.

Appendix 2 - process feedback questionnaire

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. Was the report easy to read and understand, could it have been better written?
3. To what extent did the report's conclusions provide a balanced view?
4. To what extent did the report make reasoned recommendations for improvement?
5. Please add any further comments?

Please send your comments to:

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Appendix 3 – End of Year Reporting Template [**Provided as separate document**]
