



Kieran Coleman,  
Ofgem,  
9, Millbank,  
London,  
SW1P 3GE

9<sup>th</sup> August 2016

Dear Kieran,

### **Consultation on allocation of voluntary redress payments**

Thank you for the opportunity to comment on the above consultation. Bristol Energy is a new entrant supplier with a mission to deliver social good to energy users in Bristol and beyond.

#### Executive Summary

Bristol Energy welcomes Ofgem's consultation on the above topic. Redress payments are always better than fines as it means that funds go back to customers, rather than to HM Treasury and Ofgem's decision to make this process more formal and desirable is welcomed.

Our preferred approach is the variation on Option 2 where an independent charitable trust is set up by Ofgem with Ofgem providing secretariat support. We believe this would be the most cost effective solution over time, and strengthen the understanding that the funds are due to a licensed party's misdemeanour. We do not agree with Ofgem's assertion that setting up and running the fund would require "substantial resource", many trusts of equivalent scope are run by a small group of volunteers on a part time basis, and show this can be done without substantial resource, although it can be made complex and costly if minded to do so.

We are pleased to see that Ofgem is considering how best to ensure that smaller organisations can also access funds that become available from redress payments and encourage this approach. We also believe that Ofgem should not preclude any organisation from applying for funds and should specifically encourage local authorities and similar organisations to participate.

We have answered your specific questions below, expanding where necessary.

#### **Q1. Do you agree with our objectives for the allocation of voluntary redress? If not, please explain why?**

We disagree with the primary objective on two fronts. Firstly, we feel the restriction to "long-term benefit" whilst preferable could exclude those most in need for short-term help. More importantly, though we believe that this objective sets out in its words "How" the redress is spent, not "what" it is spent on.

We believe the primary objective should be something along the lines of "Voluntary redress funding

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should be used to support vulnerable energy customers to manage their energy bills and consumption above and beyond existing obligations”.

The secondary objectives should be removed and become part of guidance on how the allocation of funding should be considered. Derating these objectives to guidance would mean that if a proposal came forward that met the primary objective; it could still be funded even if it failed to meet one or more of the secondary objectives.

More specifically, we believe that the first secondary objective should be reframed around the receiving party being a not for profit organisation and independent of the supplier. We note that the last secondary objective assumes that the redress is a significant sum from a large supplier, whereas this process would be disproportionate for distributing smaller amounts of redress from smaller suppliers. We believe this should therefore be caveated with “where appropriate”.

**Q2. Are there any additional objectives or criteria we should consider when making a decision on our forward approach to voluntary redress? Are there things our approach should definitely include or absolutely avoid?**

We believe Ofgem should try to ensure that organisations of all sizes should have an opportunity to access redress funding and that the process does not exclude them through complex bureaucracy. Smaller organisations are often much closer to those in need, but are often run by volunteers with no full time staff which means complex form filling and bidding proceedings can exclude them. We would therefore support an objective requiring funds to be distributed to wide range of organisations of various sizes.

**Q3. What are your views on ‘option 1: current process with enhanced principles’? Are there other advantages, disadvantages, risk or costs relating to this option that we should consider?**

Whilst we support the principle that large redress payments should be split across several parties, we believe that making applicants submit requests through an open bidding process will exclude smaller organisations, as will having to provide monitoring data to suppliers on how funds are being spent. If this option is taken up, then there should be a de-minimus amount that can be given to smaller organisations, without a bid process or subsequent monitoring.

Overall, we think this option is quite costly, and will deter smaller parties who would be facing smaller redress payments from opting for redress and preferring the less costly option of a fine that goes to HM Treasury, which we believe is not in the best interest of helping vulnerable consumers.

**Q4. What are your views on the possible additional principles outlined in ‘option 1: current process with enhanced principles’? Are there further additional principles that would help meet our objectives?**

We believe the additional principles will reduce the number of suppliers willing to opt for redress as they impose additional costs on the party and on the recipients. We do agree that parties should not be able to make a virtue out of the redress payments, but feel that payments to organisations with links to the offending party should not be precluded unless the party has control of the running of the organisation. Informing recipients that the money is from a redress payment is understandable, but beyond the initial

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recipient, there is a danger that confusion could arise as to who the redress party is, especially as the party should not be named. i.e. If Supplier A was to provide redress payment to an energy related charity, is there a risk that by the time, the money is passed down to the final recipient, and then it may be thought it is redress from some wrongdoing on the part of the charity.

**Q5. What are your views on 'option 2: Responsibility given to a third party with appropriate expertise? Are there any other advantages, disadvantages, risks or costs relating to this option that we should consider?**

We would be supportive of this approach but believe that the third party should take responsibility for allocating funds based on guidance provided by Ofgem, rather than recommending recipients to Ofgem to approve. We believe Ofgem should not restrict whom money is allocated to, as long as the money is used for the criteria Ofgem sets out in its guidance. In particular, we would support local authorities or similar local organisations being able to bid for funds.

One advantage of this approach is that funds can be held until required by organisations. It would also be advantageous for smaller organisations if regular funding rounds were organised rather than organisations having to rush to apply because a redress decision has been made and applications need to be made within short time scales.

**Q6. How should the costs of the third party associated with allocating redress be funded?**

The amount of funds available will vary from time to time and it is possible that there will also be periods when there are no funds to distribute. We would therefore propose that to keep costs to a minimum then Ofgem should provide the trust secretariat, but decisions are made by an independent board of trustees appointed by Ofgem and acting Pro-Bono.

We disagree with Ofgem's assertion that setting up and running the trust would require substantial resource. Many trust funds are run entirely on a voluntary basis by trustees with no paid support, and do so successfully. For example, I am currently Chair of a trust and along with three fellow trustees; we allocate funds to local causes. The set up costs was a few hundred pounds mainly on legal work and ongoing costs are minimal.

**Q7. Should the company that made the redress payment have an input into approval of recipients under this option?**

If, as we propose, funds are held and distributed on a regular basis then it is likely that the link between the redress payer and the recipients will be reduced, especially if over time the trust is holding funds from several sources. We therefore see no reason why the redress payer should have any influence on the choice of recipients.

That said we see no reason why redress payers cannot express a preference to the third party allocating funding if it wishes the funds to be used in a certain way. The third party should not be required to accede to such a request, but could allow it to be a consideration if they choose to do so.

**Q8. How can we ensure that smaller potential recipients can bid and not be disadvantaged compared to larger potential recipients?**

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We believe that holding regular funding rounds rather than requesting bids as and when redress payments are received would be beneficial as it gives smaller potential recipients greater chance to request funding as and when required. The guidance issued by Ofgem to the third party should also require it to ensure that funds are distributed to range of organisations of different sizes.

An alternative approach may be to cap the amount of any individual payment, but this may be restrictive and lead to worthy recipients of funds being denied funding.

**Q9. What are your views on this ‘Variation on option 2 – Voluntary redress payments go to a charitable trust set up by Ofgem’? Are there any other advantages, disadvantages, risks or costs relating to this option that we should consider, particularly in relation to the DAF provider model set out above.**

This is our preferred option as we believe in the long run it would be the most cost effective. The intermittent nature of redress payments means that it is likely there will be an element of famine and feast, which means Ofgem could absorb the administration into its workload much better than a DAF provider. It would also save Ofgem the costs of tendering periodically for a DAF provider, and managing the transition, (and possible transfer of unspent funds) from one DAF provider to another.

Additionally, Ofgem would have a greater say in the appointment of the individual trustees in terms of their knowledge and integrity, which in turn could ensure the money is better spent. It would also emphasise that the funds exist due to redress payments with Ofgem’s involvement in a way that may be lost if using a DAF provider.

**Q10. How should the costs of running a charitable trust set up by Ofgem be funded?**

We believe that running the charitable trust, assuming trustees are unremunerated should be minimal and easily absorbed into Ofgem’s budget. If Ofgem does find in certain occasions the costs are more than it had budget for, then the trustees should be able, at their discretion provide additional funds to Ofgem provided it did not exceed a set cap (e.g. up to any interest earned).

**Q11. What are your views of the idea of using part of the voluntary redress payments to support specific schemes? What are the advantages, disadvantages, risks and costs relating to this idea? What existing schemes could be considered under this approach?**

We are not supportive of this approach as it presupposes that such schemes are the most worthy recipients of such funds, which may not be the case. It also places smaller organisations in a position as to whether to apply to the redress fund direct or via schemes such as BESN, most likely they would apply to both to be more certain of gaining funding, thus duplicating their work load.

**Q12. Which of the options in this consultation do you think should be used and why?**

We are most supportive of the variation of Option 2 where Ofgem provide the independent trust secretariat services as this is likely to be the most cost effective in the long run and better able to manage the famine and feast issue that will invariably arise. It would also provide recipients a better understanding that the funds are coming from redress payments.



As a smaller supplier, we find it significantly better than option 1, which would cost the supplier a significant amount of administration, in some cases it may be higher than the redress payment for a smaller supplier, and thus they would opt for a fine instead of redress.

**Q13. Should any other options be considered? If so, please provide an outline explanation of your suggested alternative option(s), please also outline any associated benefits and costs with the alternative option(s)**

We have no alternative option to propose.

I hope this response is helpful. If you have any queries, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby".

Chris Welby  
Head of Regulation

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