# Response to voluntary redress payment proposal
# For Ofgem

## August 2016

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**Main contact:**
Michael Theodorou
Senior Grantmaking Manager
CAF Philanthropy
mtheodorou@cafonline.org
03000 123 187

David Stead
Director of Philanthropy & Development
CAF Philanthopy
dstead@cafonline.org
03000 123 494

Maryanne Graham
Private Client Manager
CAF Philanthopy
mgraham@cafonline.org
03000 123 357

Monica Brown
Head of Charity Advisory and Programmes
CAF Philanthropy
mbrown@cafonline.org
03000 123 224

***Important Notice***

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CAF Charities Aid Foundation

# 1. Executive summary

We understand Ofgem wants to improve how voluntary redress payments are allocated in order to deliver maximum positive impact for energy consumers. Thank you for including CAF in this consultation, we are delighted to respond.

CAF is a 90 year old charity with a wealth of experience designing and managing substantial grant-making programmes for major corporates, government departments, NGOs and Foundations. We are strong supporters of what you are trying to achieve for Great Britain's energy consumers with these proposed changes and would welcome the opportunity to discuss them further. Although this programme is unique and needs careful thought, we have delivered programmes with similar objectives and complexities, and would be happy to talk through these to help the learning and decision-making processes.

Overall, donations through CAF to the charity sector in the UK and worldwide were around £500m last year and we are very active in the energy sector through grant-making, corporate philanthropy and CSR advisory.

Question 12: Which of the options in this consultation does CAF think should be used and why?

*We have kept comments relatively brief because the consultation document already includes any ideas and options based on best practices in this area.*

CAF recommends a model between option two and the second variable is considered based on your stated aims, information and discussions to date. It is clear that a flexible, robust and proven model is required which can be adapted to many segments including:

- Geographical reach
- Type of consumer
- Cause/thematic areas
- Supporting proven and scalable charity models

In addition the level of funding available year on year could vary which could hinder charity expectations. Organisations may have read of the programme and be looking to apply. However, the visibility of this could outweigh available funds if redress funds were low in a particular year. Therefore, we would recommend an approach which considers retaining a percentage of funds for the following year to mitigate against any large reduction of grants in future years. However, this could be mitigated with a multi-fund programme potentially with its own brand and media channel/website which could host learning and impact across the sector. Charities are channelled through one vehicle (rather than several energy companies) with published criteria and one process flow.

To maximise long-term benefit for energy consumers, consideration needs to be given to a number of factors including whether larger and more strategic partners are sought in addition to a mainstream programme supporting more regional charities with proven models. This could provide powerful impact driven results with depth and breadth together with some real life case studies demonstrating positive change, consumer benefit and value for money.

Having reviewed all the suggested options, CAF would recommend option 2 to include elements of the option 2 variation model. Establishing the programme through a CAF Trust structure for example means you would derive several benefits. For example you could have a separate decision making board without the cost of adhering to independent charity regulations such as producing accounts and appointing your own trustees, etc. Using CAF would allow you to establish a separate Trust under CAF where Ofgem could decide how much or how little to engage with the programmes. We would recommend this be structured alongside a panel of experts to inform grant decision making. Overall this could provide a mix of your two preferred options with reduced effort and resource.

Question 1: Does CAF agree with your objectives for the allocation of voluntary redress? If not, please explain why.

The objectives appear clear and support a move to risk mitigation, increased transparency and measurable impact.

Question 2: Are there any additional objectives or criteria you should consider when making a decision on your forward approach to voluntary redress? Are there things your approach should definitely include or absolutely avoid?

A thorough criteria would need to be established which allows you to adapt to the need and the purpose of the redress. A decision panel with a range of expertise is fundamental.

## 2. Option 1: Current process with enhanced principles

Question 3: What are CAF's views on 'Option 1: Current process with enhanced principles'? Are there any other advantages, disadvantages, risks or costs relating to this option that you should consider?

CAF would agree that this option, whilst currently in place, is not the most attractive or the most effective solution. Whilst energy companies may be unable to promote their brand/PR to supported charities, the process of how they are identified could be seen as not being transparent or open for all. There are reputational and operational risks with this approach. There are better ways to include the companies and ensure the impact of, and learnings from malpractice are identified and communicated.

Question 4: What are CAF's views on the possible additional principles outlined in 'Option 1: Current process with enhanced principles'? Are there further additional principles that would help meet your objectives?

The additional principals make much sense. They provide for a fair and open process. However, the model and programmes would need to be flexible to support any volatility in the redress funds (i.e. reduction). Applications could be encouraged through a pro-active programme to target and support gaps where credible organisations and applications are required in contrast to a re-active programme where demand could exceed available funds.

## 3. Option 2: Third party responsible for managing redress allocation

Question 5: What are CAF's 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 you should consider?

This option is certainly CAF's preferred option. However, we would also include elements of your option 2 variation. Most of this will come down to how engaged you wish to be. If preferred, Ofgem could be completely removed from the process once criteria and roles are in place. However, a better option may be limited and clearly defined engagement through a governance committee which meets once or twice a year for example.

If CAF was in a positon to run the Trust to your wishes and criteria, we would also appoint external panel members who bring a diverse range of relevant and credible expertise to provide further independence and additional governance with a robust grant-making programme. This way it would be a very open and transparent decision making process with risk being shared beyond that of one party.

This option certainly makes sense particularly from a cost, expertise, transparency, risk and resource perspective

Question 6: How should the costs of the third party associated with allocating redress be funded?

The costs of managing and running the programme could be funded in several ways or a combination of the following.

Option a: for some of the redress funds to be held on deposit for a period of time to provide additional funds to pay for managing the programme.

*For example: - If £30m was received and grantees were paid £20m up front and £10m upon completion, this would mitigate risk but also mean that potentially £10m could earn interest for 6 months. A longer period of deposit may allow a fixed and/or higher rate of interest but interest rates are of course very low and volatile at the moment. Keeping the funds in cash does reduce the potential losses from investment in bonds or particularly equities of course.*

Option b: the energy suppliers providing the redress funds to provide a small additional amount to support the programme as they would no longer bear this time or resource cost themselves

Option c: a small percentage of the total redress funds to be used (it is understood this is not preferred although it is the industry norm).

Question 7: Should the company that made the redress payment have an input into the approval of recipients under this option?

We would not recommend this outright but there may be effective ways to build some input and especially some energy sector learning into the overall programme. The purpose of the options you provide suggest a move to increased transparency and using experts not associated to redress funds to support decision making. Allowing a company who created the need for redress too much influence or involvement could raise further questions. However, there could be a way of engaging them by reporting on how the funds were spent, their impact and the learning that was identified.

*For example: - If redress funds were to be used to improve consumer care, it might be recommended that the company sees the learning from grant-making in this area and invests in improving their own processes to reflect this.*

Question 8: How can you ensure that smaller potential recipients can bid and are not disadvantaged compared to larger potential recipients?

Multi level programmes could be created – one for strategic partnerships and one for mainstream funding support. Themes could be identified and a strategy for geographical focus agreed to reach more regional level consumers. In addition, clear criteria could be developed to attract applications from smaller organisations with a clear and targeted marketing/communications campaign. Weighting could be added to internal scoring to ensure that the right type of organisation/priorities are identified and stack up well against larger organisations. Evidence suggests that robust programmes can be put in place to achieve a fairly complex and diverse set of objectives without becoming over-complicated or too costly.

There are also options for programme(s) to focus on scalable organisations recognising proven models where capacity building could provide the catalyst to success and attract recognition and further support.

There could also be consideration to providing expertise to support the gaps within organisations along with finance to support a sustainable model.

## 4. Option 3: A variation of option 2 with a charitable trust

Many of the benefits of this variation can be achieved with the flexibility of using a CAF Trust vehicle. However, in essence this option provides a fully independent structure.

Question 9: What are CAF's 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 you should consider, particularly in relation to the DAF provider model set out above?

This option allows Ofgem to have minimal involvement in the programme in the long term. However, there are high additional costs and in the short term this will be resource heavy for you. Additional costs to appoint trustees, build the programme framework and approach, create the governance documents and providing annual accounting returns would greatly outweigh the cost of using a trusted intermediary like CAF where you could be confident in the development and delivery of the right bespoke programme which matches your aims but where your time and cost commitment is reduced to the level you are comfortable with. If you provided clear upfront guidance and a suitable programme structure was agreed, it is possible to remove yourselves from much of the Trust and programme processes involved. In this way Ofgem could focus on the right outcomes and the learning generated.

Question 10: How should the costs of running a charitable trust set up by Ofgem be funded?

Quite similar to question 6 though the setup costs are likely to be higher with this option. There will be additional costs and resource for this option though CAF's ability to offer a Trust solution would also provide perceived independence. Governance costs will be incurred through training, recruitment and setup of the Trust/Foundation together with legal requirements including preparation and submission of accounts, complying with authorities such as the Charity Commission and auditing. A team would also be required to resource incoming traffic and grant making expertise would also need to be in place to run the programme(s) on a day to day basis.

## 5. Additional considerations

**Sustainable model**

It is recommended that the model should be sustainable, with some funds retained to support the following year's awards. Benefits of this approach would provide:

1. A dedicated resource year on year
2. Ability to plan
3. Meeting charities needs and expectations (they may have read a press release)
4. Credibility
5. Transparency
6. A consistent flow of funds
7. A fee model would rely on regular funds.

**Website/learning**

Shared learning could be implemented through the grant platform promoting the fund. This could hold the programme objectives; criteria, application form and anything else relevant but also key case studies demonstrating change and impact. The latter could be used not just for charities to relate with and consumers to understand how funds are supporting the sector and key areas, but also for the energy suppliers to also learn.

There could be 2-3 funds available to meet key priorities or one fund with funds allocated internally across priority areas. Simplicity, transparency and ease of use/effectiveness from both a donor and applicant perspective are key.

**Maximising fund growth and impact**

Funds being paid from an energy supplier to a CAF trust, the funds have legally left the private sector and are within the charitable domain. It has crossed the charitable threshold.

Ensuring the funds to support the sector, but also grow is fundamental and a model with the following considerations would be strongly recommended:

Year one: design the fund, recruit a dedicated team/resource, governance panels, and promote the fund

Year two: first round of decisions:

- 3-5 year grants: a large proportion of redress funds being used for 3-5 year grants. This would allow for the commitments to be allocated but only paid in equal instalments each year. Therefore there is potential to retain 66% to 80% of funds in year two
- 1 year grants: a smaller proportion of funds where 50% could be provided to organisations up front with 50% upon completion of projects/monitoring.

This type of model would effectively allow commitments to be made, but ensure that funds are drawn down over time and thus maximise additional income to support operational and governance costs.

Question 11: What are CAF's views of the idea of using part of voluntary redress payments to support specific schemes? What are the advantages, disadvantages, risks or costs relating to this idea? What existing schemes could be considered under this approach?

Using redress funds in this way appears to be aligned to your objectives and could be split into these types of schemes. However, if a charitable entity such as CAF were to be appointed, funds would have to be redirected before CAF received the funds. This is due to funds from CAF only being used for charitable purpose.

A CAF Trust vehicle would hold 'charitable' funds to distribute over time to charitable organisation. Schemes and organisations outside of this would need to be supported before funds crossed the 'threshold' to CAF. Once funds are within the CAF trust they are legally CAF's though we will act on recommendation from Trust account signatories appointed by the initial donor. An intermediary could review options in the design phase of a grant before any decisions were made. One question might be what action should be taken when one or more of these funds close?

Question 13: Should any other options be considered? If so, please provide an outline explanation of CAF's suggested alternative option(s). Please also outline any associated benefits and costs with the alternative option(s).

As described above we would recommend a Trust/Donor Advised Fund (DAF) like vehicle providing the benefits of your option 2 variation without the need to legally appoint trustees or register independently.

Using an external organisation with grant making expertise would also allow for support at a strategic level. To help ensure that the vision and objectives are aligned, that tools such as a theory of change model are used and to ensure this is clearly defined within governance structures and the grant making approach and framework. This will result in a clear programme, with transparency and well thought through monitoring/impact metrics with are all aligned both strategically and operationally.

Many funders/donors including Government departments use best practice of a third party evaluator. Benefits of doing this is to ensure they are totally independent from the process and can work at many levels to look at real difference and impact from the fund and wider reach.

**APPENDIX A**

We thought it would be useful to outline what the end to end process could look like if CAF delivered this programme.

## CAF Trust

This is a charitable vehicle which is a sub account of CAF and is totally independent from Ofgem and energy suppliers. Once donations are received, they have crossed the threshold into the charitable sector and are now legally CAF's to distribute and must be used for charitable purposes only. This option relieves Ofgem completely from any regulatory and administrative financial burdens. Ofgem would not be required to adhere to the Charity Commission requirements of producing additional accounts, audits, trustees, etc.

## Governance

CAF's expertise is our breadth of knowledge and charitable reach. We have extensive experience providing similar services for other national programmes such as Smart Energy GB and UK Search and Rescue (Cabinet Office). CAF can design governing tools to support a Strategic and Operational committee. Panels would be volunteer experts with varied skill sets, providing a range of views complementing decisions. Volunteers would be managed by CAF and allow for Ofgem to be as close or distant from this process as desired.

## Programme

CAF would work with Ofgem to design the most appropriate model with clear objectives and successes. Year one would inform this and programme design along with the above areas. A communications plan would target networks and priority groups with proven models. The programme would be managed by a dedicated 'team' supporting emails, calls, and applications together with outreach and networking opportunities. Assessments would be undertaken to review applications against priority areas and mitigate risk through an organisational and project approach. A portfolio of recommendations would be provided to the decision making panel (independent volunteer experts as mentioned above) with decisions communicated through grant offers and constructive feedback to unsuccessful applicants. Staged payments made through the trust account means that grantees will be managed by CAF through their project cycle. Monitoring frameworks shared and data collated with continuous case studies shared and learning for the private and voluntary sectors and for CAF.

## Other considerations

CAF has experience of managing many funds and consideration could be given to maximise the capital/redress amounts in the trust vehicle which could support costs. Sector need – Funds could be used to transform many organisations in the sector with models that are proven, clever and workable. They may just require expertise and support to scale them to the next level in their journey.

## Costs

Whilst programmes can incur costs of between 2.5%-10% we understand the importance of reasonable administration costs for delivering this programme and do not at this stage envisage costs in this range. Given the variables however at this stage, such as the value of fines year on year, we recognise a percentage fee based model would not be appropriate in this situation. We would look to negotiate a bespoke package with you to support a dedicated team of experts, the financial vehicle and governance support/costs. This is likely to be conservative in comparison but would depend upon many factors including: resource requirements to manage interest/enquiries, number of applications, grant management and monitoring, together with governance support and size of funds versus number of grantees.