

Ofgem Consultation on Voluntary Redress

Response from Neil Hartwell

I write as somebody who has experience of working both as an employee and a company director in this field for some years and is currently chair of a small fuel-poverty charity helping households in Cornwall.(Community Energy Plus- No: 1068990) In addition I have experience of the QA costs and requirements of contract compliance to nuclear industry standards from employment in the Steel Industry.

We have seen a catastrophic change in the world of Fuel Poverty and help for vulnerable households with the cessation of Westminster support for grant schemes, and uneven progress on the various versions of EEC and Home Energy Discounts. The previous commitment for the elimination of Fuel Poverty by 2016 has slid off the table, to be replaced by a fiasco which was the Green Deal. Combine this with the general climate of austerity and we have the Third Sector in a parlous state. It is curious to have to welcome the supply of funds from voluntary redress, but so be it.

Question 1: Do you agree with our objectives for the allocation of voluntary redress? If not, please explain why.

I think you are quite right to consider that any Redress payments might be misinterpreted by recipients if they are not made aware of the source of the funds, but there are other ways of making the PR point clearly without barring certain existing and functioning trusts, simply because of their name.

Question 2: 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?

Any third party used must be not-for-profit. Accounting rules with such bodies make sure that funds supplied to them for specific purposes are “Restricted”, and cannot be misapplied.

There has to be a clear preference that domestic energy consumers benefit, although I can envisage organisations requesting funds which could be applied in a way that they reduce the organisation's own energy consumption in serving the consumer base – e.g. childcare centres, money advice centres.

I am not sure that allowing funds to go to debt relief provides anything other than short-term notional relief, and is in any case a direct source of benefit to the power companies being fined.

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

The statement made is that OFGEM wish “to maximise consumer benefits to a wider number and spread of charitable recipients than has been the case to date”. This is not qualified by any evidence, so it is difficult to see how you are going to evaluate your choice .

The body chosen will have to adopt or devise a series of published eligibility rules to guide how it will distribute the redress funds. It is impossible to evaluate the different approaches without making some

key decisions in this respect: (The term “impact” is also used in the document, and this itself has different connotations and measures relevant to assessing results. Clarity is needed.)

Relevant issues will be :

- The organisational integrity and robustness of the bodies funded (i.e. Kids Company)
- The amounts and duration of projects to be funded (together with performance retention payments)
- Eligible /ineligible purposes – Boiler installations v. fuel debt write-offs v. Research
- Geography – deliberate attempt to target super-output areas of deprivation v. even coverage across Great Britain.
- Customer base – is preference given to the traditional areas served by the companies pre-liberalisation in relation to their redress penalty money? How would third parties know which consumers have current contracts with which supply company?
- Consumers – is the relevant denominator the number of metered customers, or the numbers of households affected? Vulnerability criteria are tricky, and will the same ones be used as in previous national schemes. Will Age be a factor ?
- State Aid & Delivery of statutory duties clashes : in my view Local Authorities, or Housing Associations with large links to their local Council should be precluded
- Partnership working and matched funding : will this be desirable (or essential) ?
- Benefit can be short or long term – Debt relief is particularly immediate, whereas solar thermal roofs are longer term.
- Is the denominator energy consumption ? – in which case insulation is better than cheaper tariffs. Will money advice be allowable, given the key links to entitlement to other existing help for energy costs?
- Ethnic and religious even-handedness.
- Administration overheads : Charities who bid for work have to be allowed to bid to cover their own overheads, and the magnitude of those overheads needs to fit the type of work undertaken.

Question 4: 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? Allocation of voluntary redress payments in the context of enforcement cases

- Benefit may include Carbon measures – and conversion from Oil or Coal to Gas . Various charities have a Green agenda which may overlap with energy cost issues.
- Rural Off-gas areas not currently able to contract with the Big 6, regardless of their fuel type – Bottled Gas, Peat, Oil. Cornwall has a high proportion of off-gas properties.
- Tenure & Ownership – Owner-occupier v. rented accommodation with benefits apparently flowing to landlords. (Does title for a new boiler pass to the house-owner ?)
- Housing Type – Solid wall properties cost more to insulate and have been skirted by EEC/ ECO Park Homes are currently ineligible for most support, despite their poor energy performance. (again a common housing type in Cornwall)
- The industry has seen many instances of notional benefit – e.g. the presumed energy savings from millions of low wattage light-bulbs, or telephone advice on energy efficiency behaviour. This is to be avoided.

- Rules may be needed on how often any given recipient body can re-apply for a further tranche of redress funding.

Question 5: 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?

The document uses the term “charitable” in a loose sense. While the Libor experience may be relevant, there is in addition a wide range of not-for-profit organisations which should be evaluated and considered. The Charity Commission is a relevant consultee in this setting, but the Scottish equivalent should not be ignored. The FSA is the regulator for the Co-operative (Industrial & Provident sector), and the CIC model was specifically set up to reduce some of the overheads of a full charity.

For a transparent approach all rely on the establishment of clear “charitable” objectives.

If the costs of setting up a trust are a concern, appropriate advice is readily available in the Third Sector via ACEVO, NCVO.

The real challenge is the recruitment of the “Experts”, and ensuring their independence (not so easy when there are conflicts of interest with real people with real experience.)

While the consultation speaks of the absolute minimum of Trustees required, under which circumstance additional “Experts” would have to form some type of internal panel, there is a strong case which can be made for completely transparent governance for any person tasked with approving grants actually being a Trustee, and therefore an unpaid volunteer.

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

The costs have not in my mind been considered adequately :

- Governance Costs & Trustee Expenses
- Administration costs for Grant Applications & eligibility checking ahead of the competitive bid process.
- Administration costs for the phasing, issue and monitoring process, with or without site-visits
- Promotional costs for attracting applications.
- Some finance costs related to managing cash flows and external audit.

How large these costs are are dependent on the prevailing ethos established for the third party:

- have they themselves set out to put a “low-cost” bid ?
- are they seeking to attract the widest number of applicants across Great Britain ?
- are they very process driven and risk averse, due to heavy external scrutiny ?
- If all the money were allowed to be granted to a single reputable charity – say Barnados, the admin and monitoring costs would fall – however by contrast, if a grant maximum of £20,000 per organisation per year was set, the admin and monitoring costs would rise in direct proportion.

Inevitably, the costs fall on the only source of funds – the redress monies. No Fines, no Third Party.

It is not clear in the consultation what is intended in how quickly the redress funds have to be distributed and cleared off. There are clear cost implications, but if the power companies improve their performance, inevitably the redress funds would then cease. Sustainability is a concern.

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

No, in the direct sense of approving them, but their experience and expertise is relevant. (They have had Social Programmes to deliver in the past). If there is a direct requirement to link the Redress process to the areas where complaints have originated, then some company input may be essential.

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

If a heavy-handed approach with pre-qualification approval is required, then large establishments will win through every time. My small charity in Cornwall can barely continue to stand the admin overhead of “industry-standard” Quality Assurance, however desirable this may be. Green Deal was an example of a well-meaning, but admin-heavy finance environment, and ERDF funding has also been heavy in application and monitoring. By comparison, the Big Lottery Fund has a serious, but manageable approach which is worthy of investigation.

A major issue in my experience is the governance structure of many third sector participants in the world of bidding for grants. Some are more central, and others more federal. The CAB for example has national reach through its range of local organisations, likewise Groundwork and Age UK. This can lead to complications in judging whether one central person is bidding for a large chunk of cash which in reality will be divided and controlled on a decentralised basis. The alternative is that a lot of carbon-copy applications are submitted by the local representations of the body corporate.

The real control comes via the “experts”. If the grant-making body has an appropriate governing body, with independent trustees drawn with experience from the sector, and if the grant-making criteria are clearly set down. The “expertise” is not that of handling the cash and paperwork, but weighing and understanding the relative merits of bids, for example between:

- thermographic research;
- energy budgeting for young offenders;
- advice to new migrants in rented accommodation;
- or fuel debt relief.

In Cornwall with a rural, widespread population we have seen bids for grant funded schemes go to large urban centres elsewhere. If instead Ofgem insists that the scheme is organised with quotas and bid maxima, the funds will not go astray, and smaller organisations will be treated with respect.

As far as I am aware, the existing DAF providers have no such expertise. There is a great risk that such an inexperienced body may fall for the blandishments of a single, large organisation's bid, who will

take away from them the need to decide on the finer points, and certainly will not support smaller recipients.

Question 9: 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?

DAF providers exist in the USA for tax benefits. As far as I can see there are no similarities in this setting. However there are well established bodies in the UK such as Charities Aid Foundation , or Community Foundations which could take this role, as well as many of the existing Power Company Trusts. It must however be of a charitable nature, and not run by bankers. The choice should not be based on offsetting "costs" by investing unallocated or later-phased redress monies, as this is the wrong emphasis if the vulnerable are to be helped. In principle the sooner all the money is distributed the better.

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

From the wording of the consultation , OFGEM clearly has no stomach for setting up and running such a charity. The costs however are identical, whether Third Party or Direct. If Ofgem fails to impose adequate objectives, standards, controls and monitoring requirements, then it will face criticism. If it does that work itself, it is in control.

Question 11: What are your 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?

It is perhaps too easy to be cynical, and that any grant of money to these schemes will lead to an equal and opposite reduction in Treasury support for their funding.

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

Third Party, but not DAF

Question 13: 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)

The approach proposed is based on Great Britain alone, and does not reflect the deliberate trends towards more local, devolved decision making bodies. It may well be that Energy Policy has not been devolved to the Welsh and Scottish parliaments, but many of the impacts of energy mis-management have impacts on areas within the purview of these more locally-based authorities. In a similar manner we have seen in England the establishment of areas under the control of local mayors, and in the case of Cornwall, a form of embryonic devolution. Parcelling out the redress funds in conjunction with those various authorities on an agreed formula could assist a fair distribution of funds.