

Ofgem Voluntary Redress Consultation questions

<p>CHAPTER 2: What we want to achieve</p>
<p>Question 1: Do you agree with our objectives for the allocation of voluntary redress? If not, please explain why.</p>
<p>Yes</p>
<p>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?</p>
<p>An additional objective could be to ensure payments go to a wide range and variety of recipients, to best support energy consumers across breaches, vulnerabilities and geography. This has been included in principles and options, but it would be good to commit an objective to it.</p>
<p>CHAPTER 4: Overview of options</p>
<p>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?</p>
<p>This option strengthens the current voluntary redress process.</p> <p>One disadvantage of Option 1 is that potential recipients may be unaware or unable to access the current process without additional support (which could be available through Option 2). This could affect diversity. Another disadvantage is whether the fines through the current process are actually deterring companies, as investigations and redress payments seem to be increasing (or is this a result of complexity of energy efficiency schemes being delivered recently?). Therefore, perhaps the whole process needs to be enhanced to provide further disincentive.</p> <p>This option would likely require additional resource to consider bids, assess organisations’ capabilities and select recipients, as well as to monitor, read and publish recipient impact reports.</p>
<p>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?</p>
<p>We welcome these additional principles, in particular precluding charities and trusts established by the company under investigation, and having an open bidding process. We believe that they should be incorporated into the process no matter which option is selected.</p> <p>We think that suggesting a number of recipients proportionate to the size of the penalty is a positive method for increasing diversity, but also feel some flexibility should be retained to prevent it being too restrictive. We agree that this may result in smaller grants and losing economies of scale, so maybe there could be large and small grant options, and the capability of the recipients and scope of the bid taken into account. For example if 5 recipients are suggested for £X penalty, but one larger bid is particularly innovative with a wide scope, then perhaps there could be 4 grants, or 3 large and 2 small grants.</p> <p>We recognise that an open bidding process takes time, but this is vital if the intention is to increase the variety of recipients. One way of compensating for this situation is to have a number of pre-screened and suitable recipient organisations already ‘on the books’, or for a settlement outcome to simply be that the money was allocated to the ‘charity pot’ and then have time for bidding after this (could this be achieved through Option 2?).</p>

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?

This is our preferred option for voluntary redress going forward. The advantage of this process is that it is independent and a new method, which differentiates it from the current process.

A risk for changing the current process (this also applies to Option 1) is that companies are utilising the voluntary redress option, rather than giving the money to Treasury, and whether this would change if a different process is implemented. Particularly if the company no longer has input into the approval of recipients and is precluded from using their own charity or trust. This risk affects financial stability and longevity of the process going forward, for both the third party approving funding and the recipients receiving the funding.

Regarding the allocation decision for funding and whether this should be done by the third party or Ofgem, we think that Ofgem should remain involved in decision-making, with perhaps a final 'sign-off' of the decision to ensure an energy focus is maintained. The process of reviewing and short-listing the bids can be made by the third party, following specific guidance and criteria set by Ofgem.

Concerning the procurement of the third party and allocation of funding and whether this is case-by-case or periodic, we think a combination might be the best approach. In terms of the third party, procuring on a case-by-case basis might delay the process and impact efficacy, so we would suggest a fixed-term contract with a review of delivery and an open tender process at the end of each term.

For the allocation of funding, the two main considerations are the time-scales of funding and the need to redress certain breaches. As we mentioned in Question 4, there could be large and small grant options, which could be offered as longer-term grants for ongoing support and shorter-term grants for specific issues. If there were lots of similar breaches by several companies these could be grouped together and allocated more periodically, whereas less common one-off breaches by only one company could be allocated on a case-by case basis.

We think that a phased, multi-year funding approach may be beneficial to some recipients e.g. their financial situation and capabilities and for certain allocations e.g. to support ongoing organisational costs, so that these can be reviewed and monitored to check they are meeting objectives. We don't think a phased, multi-year funding approach is appropriate for Option 1, where the company under investigation might hold the money over that time.

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

We believe the costs of the third party allocating redress should be funded by the company making redress, in line with the current approach. We don't think the costs should come out of the redress funding, though potentially they could come from investing/earning interest on the funding, if this was possible and appropriate, but we feel there could be a risk attached to this.

As we mentioned in Question 5, because this is 'voluntary' redress, there is a risk that companies no longer choose this option, which could cause insecurity of funding to the third party and schemes financed. It would be good to think about how costs of the third party would be paid if they had a fixed-term and redress funding was reduced.

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

No, we feel that as the company making redress should not be benefiting from this process, they should not be allowed to input into who receives the redress. This is particularly relevant to Option 1. For Option 2, they could be invited to offer suggestions for recipients, as long as it's not their own charity or trust, but we don't think they should have input into the bidding or approval process.

In terms of how they could be encouraged to think about the negative impact of their behaviour – we are not sure their input into the approval of recipients does this – but if they were able to make suggestions they would still need to consider the vulnerabilities of those they have affected. Could recipient organisations provided anonymised case studies of clients they have helped who have been affected by companies, whether for that specific breach or other issues?

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

To ensure that smaller recipients can bid and are not disadvantaged compared to larger recipients, it is our opinion that there should be research into the sector and potential recipients available and that there should be some flexibility around bids and funding.

In addition to actively researching recipients in the sector, particularly those that relate to issues being redressed e.g. energy efficiency or consumer protection, the third party could look to both invite and accept applications to be a 'potential recipient'. These 'potential recipients' could be pre-screened for experience, scope and financial situation; if these investigations are already completed it might reduce time for the bidding process. This preliminary work could identify gaps in funding, initiatives available and geographic spread, which could influence future funding offered i.e. target funding at areas or types of help that are under-represented. Having pre-screened potential recipients 'on the books' would ensure that any opportunities are communicated to all recipients large or small and particular organisations who meet a specific need could be encouraged to apply.

An important consideration when expanding the number of potential recipients is how the third party will assess and approve recipients that have the necessary resources, competencies and experiences to reach priority groups, the right geographical spread and not too many similar projects in one area and who are able to deliver work.

We believe that offering 'core-funding' to recipients should be considered, so that organisations can ensure stability in their work and long-term benefits for consumers. If time-scale of delivery is an issue, could the settlement process just be that money was allocated to a charity within the time period and not necessarily that all work was done within that time?

Another consideration is that some smaller organisations might struggle to respond to bids, particularly if there were multiple opportunities or a short time-scale to apply, due to limited resource and no dedicated fundraising staff. This should be taken into consideration, so as not to disadvantage these organisations, perhaps by allowing them to re-submit unsuccessful bids, longer time-scales to apply or even support with applications.

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?

We like this option as it would guarantee ongoing impartiality and focus on the energy sector and consumers, but appreciate this might incur additional costs and resources that Ofgem might not

have. As we mentioned in Question 5, this focus on energy consumers could still be maintained through guidance for the third party on appropriate recipients and bids, and Ofgem involvement in final allocation.

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

As we said in Question 6, we believe the costs of running a charitable trust set up by Ofgem should be funded by the company making redress, in line with the current approach. We don't think the costs should come out of the redress funding.

CHAPTER 5: An additional consideration

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?

No, we don't think this is the most effective use of redress funding. We believe open bidding allows a more flexible approach to spending funding, based on local knowledge and expertise. Other government or energy supplier schemes should be delivered in addition to redress initiatives and not access this funding. In some instances it might be appropriate for redress funding to supplement existing schemes, by allowing recipients to support the most vulnerable energy consumers to access these schemes e.g. 'hand-holding' through a caseworker or assisting with grant applications to cover customer contributions for energy efficiency measures, but this would be in addition to help through other schemes. This view is based on our experience of supporting vulnerable fuel poor households (via the voluntary redress funded project [Southampton Healthy Homes](#)) to access ECO eligible and non-ECO eligible energy efficiency works.

With the example given, from our experience the Big Energy Saving Network (BESN) is not always accessible to organisations because of the minimal funding provided and the need to develop a volunteer network. We have also noticed that BESN is not as in-depth or long-term as other initiatives, and is difficult to keep offering each year as it only suits certain consumers, so need to introduce other ways of achieving the same outcome.

CHAPTER 6: Overall view

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

We think 'Option 2: Responsibility given to a third party with appropriate expertise' should be used, because this ensures the best diversity and spread of recipients and by removing the influence of the company under investigation makes the process more impartial.

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).

No alternative suggestions.

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. 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. Do you have any further comments?

1. How can you consult with organisations who might not have the time or resource to read and respond to formal consultations?
2. The tone and content was accessible and informative.
3. The report was easy to read and understand, and a manageable length. It was text based, and sometimes figures can add value, though we appreciate this may not have been possible in this consultation.
4. The conclusions did provide balance and an honest range of advantages and disadvantages of options. However, by indicating that Ofgem preferred Option 2 it was not entirely objective.
5. Recommendations for improvement were comprehensive and considered, with not much more to add.
6. Some of the questions were a bit confusing: not all questions in the consultation text were reflected in formal questions, there were lots of points in a question which could have been shorter and more concise, and asking opinions about each option and then asking which is the preferred option required repetition of answers.

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