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Dear Kieran

## **Consultation response: Allocation of voluntary redress payments in the context of enforcement cases**

### **1) General comments**

The London Borough of Islington welcomes this consultation and the opportunity to respond. We believe that it presents an opportunity to make the allocation of voluntary redress payments more transparent and equitable.

Existing allocation mechanisms clearly require reform. Other than where they were required to compensate their customers directly affected by their wrongdoing, energy companies have been allowed considerable freedom to decide who to allocate funding to. When their wrongdoing has attracted negative publicity, it has suited them to mitigate this with the positive publicity of allocating funding to charities.

There has been a lack of transparency about how funds which would otherwise go to the public purse have been allocated, and why certain charitable organisations have been given preference over others. There also appears to have been little if any scrutiny of the outcomes and outputs of allocation decisions or, if there has, the results haven't been shared.

Few local authorities such as our own have so far been able to benefit from voluntary redress funding, due to a clear energy company preference to allocate to charities. Local authorities have a great deal to offer in terms of supporting vulnerable energy consumers, whether it be through providing affordable warmth advice and information or through improving the energy efficiency of vulnerable consumers' homes. We also typically have access to rich data sets and have strong relationships with local health and social care services that allow us to more effectively target the most vulnerable. Our own SHINE scheme, operating across Islington and Hackney, is evidence of this, bringing together a network of over 120 local organisations to assist 13,700 households since 2010 to have warmer, healthier homes.

It is hoped that the new proposals will offer new project funding opportunities for local authorities. However, the consultation document is not clear at all about whether local authorities can receive any funding under the new proposals. Worryingly, local authorities are not specifically mentioned anywhere.

There are ambiguities throughout the document – in some places the description of the intended beneficiaries is limited to 'charities', whilst in other places the description 'charities, trusts and organisations that help energy consumers' is used. This latter description may or may not include local authorities so we wish this to be clearer.

We feel that it would be right and prudent to include local authorities within this. Ofgem's

intention to introduce open bidding for voluntary redress funding is a very welcome move, and we would be pleased to be able to compete on a level playing field alongside other interested organisations. There are no valid objective reasons to exclude local authorities from fair access and we would refer Ofgem to the positive discussions that some local authorities such as ourselves are having with suppliers in their plans to discharge their Warm Home Discount Industry Initiative obligations.

## **2) Responses to questions**

### **Chapter 2: What we want to achieve**

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

The consultation document does not provide a precise definition of which organisations will be able to receive voluntary redress funding. There are ambiguities throughout the document about this.

In section 2.4 for instance, Ofgem says that it wishes to deliver the primary objective stated in section 2.3 by 'continuing to target *charities, trusts and organisations* that support energy consumers', but then says that this will be achieved by 'ensuring allocation decisions are made by experts who are well placed to identify and assess *charitable options* and select those that will deliver maximum benefit'.

As stated in the general comments above, local authorities should be given full and equal access to voluntary redress funding. There is disappointingly not one single reference to local authorities throughout the entire document. Local authorities have operated a number of very successful affordable energy programmes and have an unrivalled quantitative and qualitative knowledge of their local areas. Local authorities could assist those households currently held on lists of vulnerable households, not all of whom will be on benefits or known to existing agencies. This would help achieve the primary objective to 'maximise long term benefits for energy consumers by ensuring that funding is well targeted'.

The objectives are supported if local authorities will be able to contribute to fulfilling them. They are *not* supported if local authorities are to be excluded.

#### **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?**

The criteria need to explicitly recognise that local authorities can bid for voluntary redress funding alongside other interested organisations.

The approach to voluntary redress should also:

- Give equal priority for funding to improve the energy efficiency of vulnerable consumers' homes. Whilst the provision of advice and information should also be supported, funding for insulation and heating measures would help to offset the reductions made under the Energy Company Obligation.
- Ensure that information obtained through monitoring the delivery and value for money of funded projects is shared widely.
- Include controls to manage how funding might be passed to subsidiary or associated

organisations.

- Prevent those bodies that have already received disproportionately more funding from benefiting again for a fixed period of time.

#### **Chapter 4: Overview of options**

##### **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 current process with enhanced principles is *not supported* because it still leaves the decision about who to allocate funding to with the energy company. The experience of voluntary redress to date shows that this has not worked effectively. Local authorities have been particularly disadvantaged by the decisions made by energy companies and this should not be allowed to continue.

As with earlier parts of the document, the ambiguous descriptions used in Chapter 4 mean it is not clear whether local authorities would even be considered for voluntary redress funding under Option 1. For example, one of the principles is that ‘the number of *charitable recipients* should be proportionate to the size of the penalty’, whilst the description of the open bidding principle says that the process will be ‘accessible to applications from all suitable *charities, trusts and organisations* that help energy consumers’. Ofgem should state clearly that the process is open to local authorities.

##### **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?**

Subject to our concerns raised above, Option 1 could only be supported if the following additional principle was applied:

The energy company will give equal consideration to bids submitted by local authorities, and will provide explicit evidence to Ofgem and all bidders to clearly justify the decision(s) made to allocate funding to a particular organisation in preference to others.

We fully support the principles that energy companies should not fund charities or trusts that bear their name through the redress allocation and that recipients, direct and indirect, should be aware that they have benefited from the result of enforcement action.

##### **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?**

Option 2 is strongly favoured, subject to local authorities being able to participate in all open bidding processes, and subject to local authority bids being given equal consideration by the third party and Ofgem.

It is preferred that the third party should assess the bids submitted and then propose funding allocations to Ofgem, with the final decision being made by Ofgem.

The third party should be wholly independent of all existing bodies and should not be funded by

energy suppliers for any of its other activities.

Bids should be invited on a case-by-case basis rather than on a periodic basis. This will allow prospective bidders to judge on each individual occasion whether they are in a position to submit a bid, and to tailor their bid to the nature of the breach.

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

The costs should be kept to a minimum and covered through investment returns and interest earned in addition to payments from the energy companies that have been investigated.

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

No, redress payments are effectively a sanction for improper corporate behaviour and the energy companies should have no influence over or input into the choice of recipient. The concern expressed in the document that “companies under investigation may not volunteer to make redress payments as they would have no control over where the money goes”, is unwarranted. In preference to simply paying money to HM Treasury, the energy companies should still want to be seen to be supporting good causes, even though they won't be able to choose the organisations involved.

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

One approach would be to break down a funding allocation into separate pots of money, with each pot having a different maximum amount that can be awarded. For instance, a funding allocation of £5m could consist of Pot 1: maximum £1m to one successful bidder, Pot 2: maximum £500k to each of four successful bidders, Pot 3: maximum £100k to each of ten successful bidders, Pot 4: maximum £50k to each of twenty successful bidders.

The larger potential recipients would be more inclined to bid for the larger value pots, leaving the smaller value pots for smaller organisations to bid for. Such smaller recipients working in full partnership with local authorities should be favoured.

**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?**

It is broadly agreed that using an existing third party rather than establishing a new charitable trust has greater advantages and fewer limitations.

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

If a trust were to be established, the costs would have to be either met by Ofgem, the energy companies, or by using money that would otherwise be allocated to assist vulnerable customers. Each of these options is likely to be unpopular.

## **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?**

Some funds should be available to support ongoing schemes or enabling effective schemes to replicate their work in neighbouring areas. In general funding should be allocated based on fair, open and equitable competition in all cases.

Looking at the example given of DECC's Big Energy Saving Network, this should continue to be supported by BEIS rather than substituting voluntary redress funding. We are not convinced that BESN effectively helps those most in need.

## **Chapter 6: Overall view**

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

We strongly favour Option 2. The open bidding process will be much fairer than the existing approach, provided that:

- Local authorities are allowed to participate and are given equal consideration by the third party and Ofgem.
- Energy companies are allowed no influence over the allocation decisions.
- When allocation decisions are made, unsuccessful bidders can clearly understand the reasons why other bids were preferred.
- The allocations are not prioritised based on the size of the match funding that an organisation can offer. Many organisations with good project proposals are unable to find match funding
- The third party should be wholly independent of all existing bodies and should not be funded by energy suppliers for any of its other activities.
- Multiple schemes are not funded at the same time in an area, or in areas where there are strong existing programmes. This can lead to confusion and non-participation amongst households and service providers.

**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 other options are suggested.

Yours sincerely



John Kolm-Murray  
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