

Energy suppliers, consumer groups, third sector organisations and other interested parties

Date: 14 December 2015

## **Guidance on the allocation of voluntary redress payments**

We want to make more transparent the way voluntary redress payments are allocated. This letter is for licensees, consumer groups, third sector organisations and other interested parties. It explains the current process involved in allocating redress payments to suitable charities, trusts and organisations and announces a consultation for a possible new approach.

### **About these payments**

These payments are made in the context of enforcement investigations conducted under our Gas and Electricity Act powers, if the party under investigation accepts the case against it and decides not to exercise its right to contest the matter in front of a Panel of decision-makers. This process is often referred to as settling a case, as opposed to contesting a case<sup>1</sup>.

Companies engaged in a settlement process have been given the possibility, when we considered it appropriate, to pay a sum of money to appropriate charities, trusts or organisations for specific activities. This redress payment is in lieu of<sup>2</sup>, or in addition to, a financial penalty.

In this letter, we are using the expression 'voluntary redress payments' to mean just that: these payments are distinct from compensation schemes or sums of money paid by companies to those directly affected by the breach. Whether or not a voluntary redress payment is agreed, in all cases the company's priority should be to compensate customers adversely affected by the breach.

### **Current practice:**

When Ofgem and the company under investigation agree during the settlement process that a payment could be made to a charity, trust or organisation, we use the following set of principles to decide whether to approve the company's proposals, or ask for amended or alternative proposals. If we are not satisfied, we may decide not to allow redress payments.

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<sup>1</sup> Details of our processes are set out in the Enforcement Guidelines 2014: [https://www.ofgem.gov.uk/sites/default/files/docs/2014/09/enforcement\\_guidelines\\_12\\_september\\_2014\\_published\\_version\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2014/09/enforcement_guidelines_12_september_2014_published_version_0.pdf)

<sup>2</sup> The voluntary redress payment which is made in lieu of a financial penalty is made in addition to a nominal penalty of £1 per licensee.

These principles are:

- It is for the company entering into a settlement agreement to propose suitable charities, organisations or projects to support. This may include one or more recipients.
- The proposed recipient(s) of the voluntary redress payment should always be reputable and of sound financial solvency.
- Wherever possible there should be a link between the breach(es) and the types of project(s) supported by the recipient(s) of the voluntary redress payment(s).
- A company should not gain benefit, financial or other, from voluntary redress. For example, a company should not derive positive publicity from voluntary redress payments, and voluntary redress payments must be truly additional to any charitable donations made, or expected to be made by that company.
- Where the harm caused has a particular geographic scope then, where practicable, the voluntary redress payments should take this into consideration.

Overall, when considering redress payments across all of our enforcement investigations conducted under our Gas and Electricity Act powers, we are increasingly looking to encourage diversity amongst the organisations which receive voluntary redress payments.

### **Next steps**

We are looking at whether further mechanisms can be introduced to promote transparency and confidence in the allocation of voluntary redress payments. We will be consulting on options and possible new mechanisms in 2016.

If you would like to discuss any of the issues raised in this letter, please contact us at [Redress@ofgem.gov.uk](mailto:Redress@ofgem.gov.uk).

Yours sincerely,

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