

Consultation Response

Ref 2616

Ofgem consultation on the allocation of voluntary redress payments in the context of enforcement cases

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About this consultation

In June, Ofgem published a statutory consultation paper on the allocation of voluntary redress payments in the context of enforcement cases.¹ It seeks views on proposals to improve the allocation of payments paid by energy companies following Ofgem enforcement investigations. Ofgem wants to ensure these payments deliver maximum benefit for Great Britain's energy consumers.

Age UK is the country's largest charity dedicated to helping everyone make the most of later life. We help more than 5 million people every year, providing support, companionship and advice for older people who need it most. We have delivered a range of energy programmes to support vulnerable older people, funded by voluntary redress payments from a number of providers. We welcome the opportunity to respond to this consultation.

Key points and recommendations

1. We welcome the proposed reforms to voluntary redress payments, agreeing that there is a need for change. We support all the objectives for allocating the funding, in particular the use of an open and transparent bidding process.
2. We prefer option 2, believing that the transparency and expertise involved would lead to a fairer situation where more organisations apply for funding and funding is distributed in a fairer way with more meaningful impact on consumers.
3. We recommend that funding be allocated over longer project time periods, including a minimum of two winters, to allow meaningful impact measurement and more sustainable consumer outcomes.
4. Funding should take account of evaluation costs in order to improve impact measurement, for example by including an evaluation costs budget line.
5. We support the idea of periodic (e.g. yearly) allocation opportunities, to allow applicants to plan ahead and develop better quality bids.
6. We recommend a tiered approach reflecting the size of a grant, whereby smaller grants have less burdensome application and reporting procedures attached. This would make it more feasible for smaller organisations to bid, as well as being more cost-efficient for large organisations.
7. We do not recommend that Ofgem set up a new third party to manage application and reporting processes. There already exist organisations with the expertise to do this.

Q1: Do you agree with our objectives for the allocation of voluntary redress? If not, please explain why.

We support all the objectives for allocating the voluntary redress funding. In particular we strongly support the use of open and transparent bidding processes whereby the decisions are made by experts. We also agree that there is a need to ensure appropriate monitoring and reporting is in place.

Q2: 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?

We propose adding an objective to ensure recipients of funding are given a lead-in time to plan programmes and spend the money to ensure they achieve the maximum

impact for consumers. Currently, we feel the timelines for spending the funding (usually 12 months or less) are too short and can restrict what organisations are able to deliver, reducing the impact for consumers.

We also propose adding an objective that allows for recipients to develop new and innovative ways of tackling fuel poverty. Over the next few years, Age UK will be focusing on providing person-centred services that take into consideration whole-house improvements to support older people. We will also be looking to pilot different methods to improve the targeting and identification of older people most at risk and will be developing a consistent evaluation framework across our programmes. The current parameters for funding available from energy companies' Warm Home Discount obligation are overly restrictive, limiting what organisations are able to deliver and evaluate.

Q3: 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?

We support the enhanced principles outlined in option 1, however, our preferred approach is option 2. An open bidding process would be resource-heavy on energy companies and there is a risk that it would not be as open and transparent as is desirable because of time restraints. Also, if time restraints were still placed on energy companies to spend the funding, we wouldn't want the time taken to complete the bidding process to be taken away from the delivery of the activities by the recipients.

In relation to the first advantage listed against this option – that the onus would be on companies to consider the negative impact of their behaviour on consumers – we are unsure whether companies coming up with proposals themselves does in fact lead to them reflecting on the negative impact of their behaviour. Unless there is evidence to support this, we query whether this advantage is valid.

Q4: 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?

We don't feel that the number of charitable recipients needs necessarily to be proportionate to the size of the penalty (4.4), provided there is an open bidding process. We echo the risk that increasing the number of charitable trusts would reduce economies of scale and mean a smaller proportion of the funding goes towards directly impacting consumers.

We agree that an open bidding process should be used to select the recipients and that it should be accessible for all suitable charities, trusts and organisations to apply (4.8).

We don't feel it is essential that there is a link between the breaches and the types of projects supported (4.11), as long as money is used for energy activities targeting vulnerable consumers and there has been an open bidding process. Some breaches

are very specific to particular situations or groups of people and to deliver a project focused solely on this area could restrict impact.

We also agree that those selected should be accountable for demonstrating how they monitor and report on the impact (4.13) and that any reports produced should be published and shared widely to ensure that any key lessons are shared with others (4.15).

Q5: 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 our preferred option. We feel this would provide an open and transparent allocation process managed by experts.

Allocation of funds on a periodic basis rather than a case-by-case basis (4.30) would give the third party a more complete picture when assessing the applications as they would be able to compare the quality of one application against another. It would also allow recipients more time to plan the best way to spend the funding in order to have the biggest impact on consumers.

It would also be extremely beneficial if the funding were to run across multiple years so that recipients can make their activities (and outcomes) more sustainable. An internal evaluation of a recent Age UK energy advisor pilot² funded through a redress payment from ENGIE (previously GDF), highlighted that one of the major limitations to the delivery was the timeframe to deliver the service (May 2015 to February 2016). Ideally, funding would be spent over a two year period or longer, incorporating at least two winters.

The short timeframe has also limited a current evaluation Age UK is conducting for a programme funded through a redress payment from British Gas Energy Trust. If we had been able to spend the funding over two years, we would have been able to build a more robust evaluation framework, including an assessment of the changes in an older person’s energy needs and behaviour the following winter after receiving support. This would greatly have increased the impact of the project both within the delivery period but also in terms of using the learning to influence future projects across the sector.

If a third party is going to take responsibility for this process, a clear structure for decision-making about application criteria needs to be put in place.

Q6: How should the costs of the third party associated with allocating redress be funded?

We agree that the costs should be covered through investing the earning interest on the yet-to be allocated funding (4.38). If this didn’t cover the full costs, we feel companies under investigation should cover it as having the third party involvement will reduce their staff and administration costs.

Q7: Should the company that made the redress payment have an input into the approval of recipients under this option?

If an open bidding process is used, and a third party assesses the applications, we do not feel the company needs to have an input into the decision. If they did, it would take away the value of organising the process through an independent third party.

Q8: How can we ensure that smaller potential recipients can bid and are not disadvantaged compared to larger potential recipients?

Below are our suggestions for ensuring smaller bidders are not disadvantaged:

- Provide flexibility on the activities that can be funded, e.g. ensuring that national impact is not required so local organisations have an opportunity.
- Ensure the application process is effective and thorough but not excessively bureaucratic for applicants, e.g. have a one-stage application process and/or a lighter-touch process for grants up to a certain value.
- Monitoring will provide accountability but should not be overly burdensome. It should be proportionate to the value of the grant and the activities being carried out.
- The grant application process should be well-publicised among smaller and/or local organisations.
- The IT systems/equipment needed to apply must be easy-to-use and compatible with a wide range of software e.g. older versions of Word and Excel.

Q9: 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 (donor advised fund) provider model set out above?

Q10: How should the costs of running a charitable trust set up by Ofgem be funded?

The advantage of setting up at charitable trust is that it would be tailored specifically around energy company redress funds. This means that expertise would develop within the organisation and there would be a good opportunity for learning across projects. It would provide an opportunity for strategic thinking about how projects fit together and any possibilities for collaboration between recipients.

However, setting up a new charitable trust would be onerous and expensive, and there already exist appropriate independent third parties who could be appointed to fulfil this function. The fact that it would be limited to energy issues might also fetter its ability to meet the needs of ‘hard to reach’ groups and to take a holistic approach to individual needs. On balance, we believe that there is no need for a separate charitable trust.

If a separate body is set up, we would have concerns about using a DAF model (which is often profit-making) rather than a charitable trust which would be a not for profit organisation.

Usually DAFs can hold on to money for an indeterminate period which means that consumers may not benefit until long after the breach occurred and the redress money paid. If a DAF is chosen as the appropriate vehicle Ofgem should specify that all funds need to be distributed within a certain time period of the redress payment (while allowing reasonable time for planning).

If Ofgem did proceed with this option, it should be funded through taking a small percentage from each payment received, e.g. one per cent coupled with a donation from Ofgem to the same value it currently spends on administration of redress payments.

1

https://www.ofgem.gov.uk/system/files/docs/2016/07/consultation_on_the_allocation_of_voluntary_redress_payments_in_the_context_of_enforcement_cases_29_june_2016.pdf

² <http://www.ageuk.org.uk/professional-resources-home/research/reports/communities/community-energy-programme-evaluation-june-2016/>