



CAS Response to Consultation on the Allocation of Voluntary Redress Payments in the context of enforcement cases

Introduction

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website provides information on rights and helps people solve their problems.

CAS welcomes the opportunity to contribute our views on the allocation of voluntary redress payments, made in the context of enforcement cases, to ensure that the process going forward delivers maximum benefit to energy consumers.

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

CAS agrees with the objectives for allocation of voluntary redress payments. These payments should continue to be targeted at charities that support energy consumers. While we support initiatives aimed at consumers in vulnerable circumstances, projects which provide support to all consumers should also be funded, as there are already initiatives (such as Energy Best Deal, funded through suppliers Warm Home Discount obligations) which specifically target vulnerable consumers. Where possible the projects funded should be linked to the harm caused by the company, however, there should also be some flexibility to allow the maximum number of consumers to be supported. Strictly linking the projects with the harm caused could lead to a number of very similar projects, or too many small niche projects being funded.

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?

CAS believes that consideration should be given to the quality of advice and support which charitable organisations can provide to consumers. While we appreciate that Ofgem does not want to place undue burden on themselves, licensees or charitable organisations, some consideration should be given to ensuring that the organisations can provide evidence of the quality of their advice or outcomes from any projects or initiatives undertaken.

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?*

We believe that the current process works well, and the evidence of the benefits to consumers demonstrates the real value that this approach has realised. To a large extent the additional principles outlined in the consultation further strengthen this process. CAS welcomes the introduction of an open bidding process, however under this option it is still the company under investigation who propose the recipient(s) and it is unclear who would judge the bids, as this is out with the normal remit of an energy company. We are also concerned that this would add an extended timescale to the process.

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?*

CAS’ thoughts on each of the additional principles are outlined below. We would welcome that our views on these principles be used regardless of which of the options is chosen.

1. *The number of charitable recipients should be proportionate to the size of the penalty*

While this would increase the number and perhaps the diversity of recipients, this principle should not be given greater consideration than the quality or effectiveness of any proposed projects and the ability of each proposed project to effectively reach the maximum number of consumers. Consideration should also be given to the length of proposed project(s). Larger penalties could be used to fund longer term projects which could have more beneficial outcomes for both customers and charitable organisations by allowing greater continuity of service. This objective should also not be used to preclude charities that have already been awarded redress payments – particularly if those charities have demonstrated effective delivery and can reach large numbers of vulnerable consumers.

2. *Preclude allocation of voluntary redress payments to charities or trusts that were established by the company under investigation and/or whose name contains a reference to that company*

CAS agrees with this principle.

3. *Use an open bidding process to determine recipients*

We welcome the introduction of an open bidding process and would welcome further consultation on the criteria used to judge applicants. There should be a clear set of criteria on which bids are judged, which should not preclude previous applicants or

current projects. The criteria should take into account the ability of bidders to deliver good quality advice and support to the maximum amount of consumers.

4. Money should be used to support energy consumers in vulnerable circumstances with a specific focus on energy-related needs

CAS welcomes the principle that vulnerable consumers should be supported by redress payments and that this money is primarily used to focus on energy related needs. However, vulnerable consumers often have a wide range of problems, including financial capability, and this funding could also take into account their wider needs. The definition of vulnerability is also unclear, as different people can become vulnerable due to a differing set of circumstances. Where the harm caused by the company has impacted on a specific vulnerable group, e.g. the elderly, we agree that there should be a link between the harm and the types of projects supported.

5. Recipient organisations, including indirect recipients should be told that the money they receive is a result of enforcement action.

CAS agrees with this principle, as it is important that recipients do not believe that the money has been donated by the charity voluntarily rather than as a result of redress.

6. Potential recipients must demonstrate that they can and will monitor and regularly report on the impact of the money they receive.

CAS agrees that recipients should be able to demonstrate that they are using the money effectively and are reaching vulnerable consumers. These requirements should not place an undue burden on charitable recipients and should be agreed in advance rather than imposed. We would also welcome the publication of these reports in order to demonstrate to future recipients a) if their idea or approach is innovative and b) which interventions have proven to be successful in the past.

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?*

CAS feels that this approach is more favourable than the other approaches proposed. This would remove responsibility for choosing the beneficiaries from the energy company and place it with experts in this field. If there is a clearly defined process and objectives set out for redress payments, this should make it easier for potential recipients in preparing their bids.

A suitable third party should be bound by the principles above and CAS would ask that our views on those be taken into account, or further consultation on the general principles be undertaken, while recognising that in the further information, e.g. where specific harm caused by the company should be taken into account.

The main disadvantage of this process is that it would add to the administrative costs involved in the redress process and may reduce the amount of funding used to support consumers. Ofgem's estimations of 0.5-1.5% of the money in the fund would be acceptable, but CAS would not welcome this option if the procurement process resulted higher costs than this.

CAS would also welcome the ability of a third party to administer periodic rounds of funding, rather than on a case-by-case basis. This would mean that smaller redress payments can be grouped together to fund larger projects and would reduce the cost burden for administering smaller redress payments and would ensure that there is a more sustainable approach to funding projects.

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

The current process currently means that the companies under investigation bear the costs for allocation of the funds. We believe that it is important to retain this to ensure that the maximum amount of funding reaches consumers. This should be taken into consideration when Ofgem set the amount of for the redress payment, and either a fixed percentage, or a fixed fee, over and above the amount dedicated to consumers should be paid by the companies to cover the costs of the third party.

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

CAS believes that it is important that the redress process be independent from the energy company, with either Ofgem or the third party having the final say on the allocation. However, the energy company may be able to contribute information that can inform the decision, such as a geographic location or information specific to the type of harm caused.

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

CAS believes that a clear allocation process, on a periodic basis, rather than the current ad-hoc basis, would allow recipients time to prepare bids. In addition to this, a clearly published set of principles for each round of funding would allow smaller charities the ability to place targeted bids.

However, we feel that larger charities, and those who have delivered projects previously should not be disadvantaged by this process. A large number of small, short-term projects may not have the same impact as a large-scale, longer project. Awarding funding to many smaller charities and projects would also increase the amount of monitoring required, and therefore the costs incurred, so this should also be taken into account, with monitoring proportionate to the size of the grant.

Ultimately, we believe that the size of the charity should not be as important as the ability of that charity to reach and offer a good quality service to as many vulnerable energy consumers as possible.

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?*

CAS do not support this option, as it would incur greater costs. As the amount of redress payments are variable each year, it is unclear how the ongoing costs and expense of this trust would be sustainable in years where there are fewer redress payments. It would also place a greater financial burden on Ofgem, rather than the companies who are investigated.

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

CAS believes that any costs should be incurred by the company making redress payments. However, it is unclear how this would be funded in years where there are fewer redress payments. By procuring a third party, costs could be proportional to the amount of redress payments, and therefore the amount of work involved in the allocation process and ongoing monitoring.

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?*

CAS does not support using the funding to support specific schemes. We feel that this could limit the scope of the funding and lead to it being driven by specific policy issues. For example, current initiatives are very focused on encouraging consumers to switch suppliers, rather than addressing other issues, such as fuel debt or other underlying causes of fuel poverty. These schemes are currently supported through other funding streams, such as through suppliers Warm Home Discount obligations, and we are concerned that funding these through redress payments could ultimately decrease the funding available through these funding streams, ultimately reducing the funding available to support consumers.

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

CAS believes that Option 2 – use of a third party to allocate redress payments – ensures that a degree of expertise and uniformity is brought to the allocations process, while keeping the associated costs to a minimum. We also welcome many of the enhanced principles outlined in Option 1, and would welcome those being used as a starting point when setting the criteria for allocations of redress payments, perhaps with further consultation.