

# Consultation Response: Ofgem Allocating Voluntary Redress Payments

Response by the Money Advice Trust

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# Introduction

## About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

Over 1.35 million people were supported by the Trust in 2015, both directly through our advice services or indirectly through training advisers in charities across the UK. This includes almost 400,000 individuals assisted through National Debtline, over 50,000 small businesses through Business Debtline and over 900,000 through our adviser training. We support advisers by providing training through Wiseradviser, innovation and infrastructure grants.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at [www.moneyadvicetrust.org](http://www.moneyadvicetrust.org)

## Public disclosure

Please note that we consent to public disclosure of this response.

# Introductory comment

We welcome the opportunity to comment on Ofgem's proposals for the allocation of redress payments. We strongly support the principle of consumer redress and we welcome the emphasis Ofgem has placed on redress as part of its approach to enforcement in recent years. We would like to see other regulators adopt this basic approach. We agree, however, that it is possible to make improvements to the current process to ensure its long-term sustainability and maximise the benefits delivered to energy consumers.

Our input into this consultation is shaped by:

- ✓ Our knowledge of the charity sector;
- ✓ Our experience of overseeing an 'Innovation Grants' programme for debt advice projects – a programme which has some parallels with some of the suggested options for allocating consumer redress;<sup>1</sup> and
- ✓ Our recent experience of receiving a consumer redress payment following enforcement action by Ofgem against a supplier.

It is clear from the consultation paper that Ofgem has put considerable thought into this area and consulted relevant experts to inform its proposals. We broadly agree with the advantages and disadvantages set out for each option and we share Ofgem's preference for option 2, involving administration by a third party. Our comments are primarily additional considerations that we think may be beneficial to take into account.

There is one specific area which we think merits attention and which has not been explicitly considered in the consultation. This is how consumer redress can be used to inform and improve support for energy consumers over the long term. Consumer redress funds a very significant amount of activity, provided by a range of charities, trusts and organisations. It provides an opportunity to test approaches, identify what works best and create a knowledgebase of useful strategies, tools and resources for supporting consumers. This would work to increase the effectiveness of activities funded through consumer redress without significantly reducing the amount of money made available directly to support consumers. We would also like to see more partnership working between organisations and a more coordinated approach to support for energy consumers. The allocation of consumer redress could be designed in such a way as to encourage and facilitate this.

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<sup>1</sup> <http://www.moneyadvicetrust.org/grants/Pages/default.aspx>

# Responses to individual questions

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

We largely agree with the objectives set out in the consultation, particularly the intention to focus on consumers in vulnerable circumstances. We understand the rationale for continuing to link the charitable recipients / projects to the harm generated by the company as much as possible. However, we are concerned that this may not be helpful in practice. The difficulty is that organisations cannot reasonably know in advance what sorts of harm will result in redress payments and therefore what sorts of projects or work may be eligible. This limits their ability to plan and develop good quality proposals. This is a particular issue for smaller organisations with limited resources. Ofgem could mitigate this issue if it adopts a flexible approach to linking harm with charitable recipients, taking an overall view of redress payments and recipients within a given period, rather than approaching each redress payment as a discrete entity. A donor-assisted fund or charitable trust, as proposed in option 2, would be well-placed to take an overall view of this kind.

We would welcome clarification of what Ofgem understands by '*charities, trusts and organisations that support energy consumers*' and what sorts of activities may be considered appropriate to receive redress payments. Energy consumers, particularly those in vulnerable circumstances, will often have a range of related issues which include, but go beyond, energy itself. We would welcome a broad approach which allows support on specific energy issues such as energy efficiency, bills and payments and so on, to be combined with other relevant sorts of help. This might include benefits checks, debt advice, financial capability, referral to support services for health, disability, addiction and other issues. A broader approach of this kind would maximise the effectiveness of the help provided and improve the diversity of organisations benefitting from the scheme. As each of these areas require specialist expertise, this would be best achieved through partnership-working between organisations.

## **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?**

Ofgem's approach should include the objective of contributing towards an improved understanding of how energy consumers can be effectively supported. Clearly, the overriding objective is to target support directly at consumers, but there is also an opportunity here to improve support indirectly. The scale of support available through consumer redress is very considerable and we would like to see Ofgem explore how it could be used to:

- ✓ Improve our understanding of how to successfully deliver benefits to energy consumers.
- ✓ Develop a knowledgebase of tools, resources and insight which could be made available to organisations providing support to consumers, or directly to consumers themselves.
- ✓ identify gaps in provision of support to specific groups, communities or geographical areas.
- ✓ Promote more partnership working between organisations and foster a more coordinated approach to support for energy consumers.

## **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 do not favour this approach. We agree with the advantages and disadvantages set out in the consultation. We would add one additional advantage of this approach, which is that it provides some encouragement for companies to form lasting relationships with charities, trusts and other organisations. However, we would not put too much weight on this factor. We agree that companies do not have the specialist knowledge of the charity sector required to properly assess the merits of different organisations and schemes and that this task is better handled by those with the relevant expertise. An additional disadvantage of this option is that it gives little opportunity for skills and knowledge to be built up over time and used to inform future practice, since each supplier would approach allocating redress as a rare or one-off event and there would be limited scope to share lessons or best practice.

#### **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?**

Although we do not favour this option, we think the additional principles outlined in the consultation would be broadly appropriate, should this option ultimately be chosen. However, we would like to understand more about the principle that the number of charitable recipients should be proportionate to the size of the penalty and how this will be applied. We appreciate that the intention behind this principle is to prevent a situation in which a small number of organisations benefit disproportionately from consumer redress and to encourage more diversity and innovation. We support this objective but think there are alternative ways to achieve this. For example, criteria could be set which encourage a broad range of activities, collaborative projects or niche projects that may be particularly suitable for smaller organisations. This would encourage diversity without restricting opportunities for larger organisations to develop large-scale proposals.

The consultation proposes to preclude the 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 to prevent companies gaining positive publicity. This will presumably mean that less money is paid into these organisations, which will have a potential detrimental impact on consumers. Trust funds and hardship funds are a significant source of financial assistance and provide help with costs that are not easily met from alternative sources. This includes writing off energy debts (which are often very substantial), help with bankruptcy fees and providing white goods and furniture.

We note that revised rules for the Warm Home Discount scheme will also have an impact on the amount of money paid into these schemes, as they introduce a cap from 2017 on the amount suppliers can allocate to debt write-off as part of their industry initiatives spending. This may also act as a disincentive to suppliers to pay money into such funds, although there may be other factors at work and we would welcome Ofgem’s view as to whether this will necessarily be the case. We would urge Ofgem to take account of the unintended effects this proposal may have on the amount of financial assistance available to low income and over-indebted energy consumers and explore how this impact could be mitigated.

## **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?**

We have a strong preference for this option and share Ofgem’s view of its advantages. We would also point out several further advantages of engaging a third party to allocate redress. A third party would be in a position to take a holistic view of consumer needs and the proposals available to support consumers. It would also be more readily able to respond to new developments across the industry and the wider consumer landscape, review the effectiveness of redress activities and of its own approach and evolve a more effective approach over time. We think consumer redress should be used as an opportunity to promote these things and that the ability of option 2 to provide this support would be a distinct advantage.

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

We do not have the knowledge or expertise to answer this question. We welcome Ofgem’s suggestion that administration costs could be funded by interest on monies paid into the fund. However, we do not object in principle to a small percentage of redress payments being used to fund administration costs, provided there is a demonstrable impact on efficiency and outcomes.

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

We see no reason why companies should have input into the approval of recipients. However, it may be beneficial to encourage companies to work with potential recipients to help them develop high-quality proposals.

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

This could be accomplished in a number of ways. A proportion of the total money available could be set aside for a dedicated small grants programme to which only recipients below a certain size or income threshold can apply. Alternatively, criteria could be set which would tend to advantage smaller charities by reflecting areas in which they may be strong, for



example, community links, niche services, working with hard-to-reach groups. Ofgem or the third party tasked with allocating redress payments could establish broad funding themes or areas of interest to help shape applications.

One of the factors which tends to disadvantage smaller organisations is that they often have limited capacity to develop new proposals or to evaluate outcomes. Many small organisations lack skills and expertise in this area. Without guidance and support, many smaller organisations will struggle to produce high-quality proposals and properly evaluate and evidence the impact of their interventions. Ofgem may need to consider whether it is possible to put in place guidance and frameworks that helps organisations to overcome some of these barriers. Some inspiration could be drawn from the Money Advice Service's 'What Works' fund.<sup>2</sup>

**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?**

The potential for a perception of conflict of interest for Ofgem to run the charitable trust would be a considerable disadvantage. In addition, as suggested in the paper, there would be the potential for Ofgem's resources and focus to be diverted into the operation of the Trust, to the detriment of its core functions.

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

We have nothing to add to the suggestions that Ofgem have put forward in the paper.

**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?**

We are aware of the work that has been carried out through the Big Energy Saving Network but we do not feel able to comment on the appropriateness of funding it via consumer redress. As a general point, however, we think consumer redress is best suited to funding one-off projects and specific interventions, rather than core services and long-term projects.

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<sup>2</sup> <https://www.moneyadvice.service.org.uk/en/corporate/money-advice-service-launch-new-7-million-fund-to-support-financial-capability-projects>

Core services (including debt advice services) require sustainable long-term funding, which consumer redress is unlikely to provide, due to its unpredictable nature..

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

We favour option 2, largely for the reasons set out by Ofgem, but additionally because of the scope it provides for a third party to take a holistic view of redress and the help available.

### **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).**

We have not identified any other options that we would want to put forward for consideration.

### **For more information on our response, please contact:**

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