



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to DWP consultation on the Energy Costs Support Scheme

October 2009

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Introduction

Consumer Focus is the independent champion for consumers in England, Wales, Scotland, and for postal consumers, in Northern Ireland. We are the voice of the consumer and work to secure a fair deal on their behalf. We were created through the merger of energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils). The new approach allows for more joined-up consumer advocacy, with a single organisation speaking with a powerful voice and able to more readily bring cross-sector expertise to issues of concern.

General comments

In July this year the Government announced its intention to mandate ‘social price support’ for certain low income households as part of a set of policies set out in the Low Carbon Transition Plan. The Plan stated that the Government was “minded to increase the resources available (*from suppliers under the voluntary agreement with Government on suppliers’ social spend*) and focus a large part of these resources on older poorer pensioner households who have the greatest risk from excess winter deaths and have a high incidence of fuel poverty”.

Consumer Focus welcomed the Government’s announcement. In common with our predecessor organisations, we had campaigned for the Government to mandate minimum standards for energy suppliers’ social tariffs. We argued that the Government should provide leadership and take responsibility for an important social policy concern, namely the inability of many low income households to afford their fuel bills. We do not consider it should be left to fuel companies to decide who should receive social tariffs and the size of the discount they receive.

Consumer Focus therefore recognises that the Government’s proposal represents a bold and significant step forward. We also recognise that implementation of the proposal will require significant cooperation between the DWP and energy suppliers. It is important to test the practical aspects of delivering ‘social price support’ and in this context the ‘energy costs support scheme’ pilot will play an important role.

The consultation describes the intention of the energy costs support scheme to pilot the data sharing element of the wider ‘social price support’ scheme. Consumer Policy’s policy on data sharing is based on an individual’s rights to privacy and positive, informed, opt in consent for use of personal data. We consider there should only be an exception to this policy when there is clear evidence of significant additional benefit to those in need.

Consumer Focus accepts that there are many issues to be resolved with respect to the social price support scheme, not least the extent to which data matching achieves a complete match between DWP and supplier records. However, the pilot has important implications for the eventual price support scheme. In this respect, we consider it important to register our perspective on the proposed scheme:

- We consider the Government should take responsibility for deciding who is helped by the social price support scheme. We would like the mandate extended to a wider range of groups vulnerable to fuel poverty than low income older pensioners alone.
- We propose that the mandate is extended to households eligible for Cold Weather Payments, plus low income households containing school age children¹.
- In the short term, we propose that the level of discount is of a similar order to ‘social tariffs’²; that is equivalent to the average differential between the most expensive tariff (generally dual fuel prepayment) and the cheapest tariff (generally dual fuel on-line Direct Debit) available in the open market.
- In the longer term, we would expect to see a considerable reduction in differentials between payment methods, for example as a result of smart meter roll-out. In this context, we propose that social price support takes the form of a fixed sum discount set at a sufficient level to make a significant impact on households’ ability to pay their fuel bills.
- The Government should consider offering additional support to households who live in ‘hard to heat’ housing, those properties that do not use gas for heating and/or are built with solid walls.

Our response to the ‘energy costs support scheme’ consultation recognises the scheme’s role in piloting the wider mandated scheme. We recognise the importance of testing systems and trialling implementation of the discount. However, support for the pilot does not mean we necessarily endorse all the policy implications of the pilot for the wider scheme.

Consumer Focus recognises that the pilot aims to test the data sharing process. However, we would urge the DWP to also evaluate a number of other aspects:

- The perspective of households benefiting from the scheme, as well as representatives of other consumer groups who are not targeted.
- The impact of the scheme against objective criteria established in advance of the scheme and agreed with key stakeholders. It is particularly important that the impact of the scheme on fuel poverty is monitored.
- The administrative costs of running the scheme, both for the DWP and suppliers, particularly since the latter will be passed on to consumers.
- The perspective of advice agencies who may be expected to receive enquiries about the scheme.

The pilot scheme needs to be time limited with a monitoring and review process at 6 months and 12 months which will take into account the factors above.

Question 1

The Government proposes a group of older, poorer pensioners should be helped by the scheme in 2010/11. We believe that targeting help on recipients of the guarantee credit alone, who are aged 70 or over, best meets our objective, while ensuring that the overall package of help is affordable within the funds set aside by energy suppliers for 2010/11.

We would be grateful for consultees’ views on whether they agree that resources should be targeted on this group of people.

¹ Of families on means tested benefits with children, only those with children under 5 are eligible for Cold Weather Payments.

² Ofgem defines a social tariff as a tariff that “must be at least as good as the lowest tariff offered by that supplier to a customer in that region on an enduring basis. This is regardless of that customers’ payment method and includes online tariffs” (Ofgem, 2009a).

Consumer Focus Response

Consumer Focus accepts the proposed group for the purpose of piloting the data sharing element only. However, we consider the proposed 'social price support scheme' should target a wider range of households than low income older pensioners alone, as stated above. We consider our proposed group is just as likely to live in fuel poverty as low income older pensioners. In 2006, 32% of 'households eligible for Cold Weather Payment or in receipt of means tested benefits with children under 16' were fuel poor, compared to 35% of 'households over 70 in receipt of Pension Credit'³ (assuming this is the intended target group for the social price support scheme).

Question 2

The working title for this scheme is the Energy Costs Support Scheme.

We would be grateful for views from consultees as to whether they feel that the title sufficiently describes the proposed scheme and would be meaningful to its target group.

Consumer Focus Response

Consumer Focus suggests changing the scheme title to Energy Rebate Scheme. We consider this would be a more understandable term to consumers. We also consider all suppliers should use the same term in describing the scheme to avoid confusion with other provision.

Question 3

We would be grateful for your views on whether the draft Regulations adequately cover the intended scheme.

(3) The purposes are—

- (a) to identify persons who qualify or may qualify for an automatic award;
- (b) to establish a person's entitlement to an automatic award;
- (c) to provide persons with an automatic award;
- (d) to contact customers who have received an automatic award with a view to—
 - (i) offering energy efficiency measures;
 - (ii) delivering or helping to deliver energy efficiency measures.

Consumer Focus Response

The regulations provide a basic outline but do not describe the scheme in detail. We understand that the forthcoming policy document will provide such details. Consumer Focus expects the consultation on the policy document to be consistent with the Government Code of Practice on Consultation. We would also expect the consultation to include details of the operation of the scheme.

Consumer Focus supports the principle of providing an automatic award and considers this far preferable to eligible households having to make a separate claim. We are very conscious of the extent of under-claiming of many existing benefits by eligible households. For example, between a quarter and a fifth of households eligible for Pension Credit do not claim it. Indeed, we consider the social price support scheme may help encourage take-up of Pension Credit, given the problems many low older households face in paying their fuel bills. However, given that data sharing appears to be the only method for ensuring automatic payment, we consider stringent safeguards are required. We address these in our response to Questions 7 and 8.

Consumer Focus considers the recommendations of Age Concern/Help the Aged, following research into older people's attitudes to data sharing, are very pertinent to this scheme:

³ These statistics use the 'basic income' definition of fuel poverty. Under this definition, 'income' does not include benefits provided for housing costs.

“The DWP should work towards a system of automatic payments through increased data sharing. However for this to be acceptable:

- information must be kept secure and only shared with people who need to have access to the data in order to increase benefit take-up;
- before any changes are introduced systems must be tested to ensure information is comprehensive and accurate enough to make automatic payments;
- letters sent to people must be clear, easy to understand and written in an acceptable tone;
- older people should be consulted about the development of any new systems including testing out materials.

Energy companies could provide help to older customers receiving Pension Credit by channelling resources through the DWP to distribute to recipients without sharing data. However this would require companies agreeing the same level of support. If such an agreement cannot be secured then sharing of data could be used to provide help. However for this to be done:

- data must be secure and there should be guarantees that any information received by energy companies will only be used for the purposes of providing benefits – not for marketing purposes, for example;
- data should only be shared if it provides significant advantages to all energy customers who fit the criteria;
- there should be the option to opt out of the system; and
- any data matching should be carried out within the DWP.” (Age Concern and Help the Aged (2009), *The benefits of sharing*, Age Concern

Consumer Focus accepts that the DWP has made some effort to address the above issues, although we have concerns about some of the specific proposals, in particular the arrangements for ‘opt-out’. We address these in our response to later questions.

Consumer Focus considers it extremely important that the discount is delivered to pre-payment meter customers. These consumers already pay higher tariffs than Direct Debit consumers (and for two companies, higher tariffs than Standard Credit consumers) and are likely to face particular hardship

Consumer Focus believes that the delivery of energy efficiency measures offer a long term, sustainable solution to fuel poverty, particularly ‘whole house’ measures that significantly improve the thermal efficiency of properties. We therefore recognise the importance of providing energy efficiency measures to households targeted for the discount.

However, Consumer Focus considers there should be very careful checks on suppliers’ contact with consumers. For example, under the current CERT programme priority group households receive energy efficiency measures for free. In this context it is reasonable for suppliers to use data to inform households about energy efficiency (similarly, we would hope the DWP encourages consumers to take advantage of the Warm Front scheme). However, in the context of priority group consumers contributing towards the costs of measures (quite possible in the post 2012 supplier obligation scheme), we would have considerable reservations about suppliers using data obtained from data sharing to inform consumers about their energy efficiency schemes if these require client contributions. We also do not consider it acceptable for suppliers to use data for marketing other services.

Question 4

We would be grateful for your views on eligibility for the credit and how it will be delivered.

Consumer Focus Response

Consumer Focus accepts that DWP has limited the eligibility criteria to provide a manageable group for the purposes of the pilot. However, as stated above we propose that the social price support scheme is made available to a wider group than low income older pensioners alone.

Consumer Focus is also concerned that the proposed level of discount (£80-£100) will provide less benefit than some current beneficiaries of suppliers' voluntary social tariff schemes. Ofgem defines a social tariff as a tariff that "must be at least as good as the lowest tariff offered by that supplier to a customer in that region on an enduring basis. This is regardless of that customers' payment method and includes online tariffs" (Ofgem, 2009).

Consumer Focus regularly monitors tariffs provided by suppliers and produces price comparison sheets relating to the main payment methods. The table below shows the average prices for September 2009, based on consumption for a medium user.

Dual Fuel - standard	SPower	EDF	BGas	E.ON	Npower	SSE	Average
Average direct debit	£1,156	£1,147	£1,127	£1,133	£1,151	£1,133	£1,141
Average standard credit	£1,361	£1,189	£1,202	£1,232	£1,256	£1,192	£1,239
Average PPM	£1,264	£1,224	£1,234	£1,232	£1,256	£1,235	£1,241

Dual Fuel – on-line	SPower	EDF	BGas	E.ON	Npower	SSE	Average
Average direct debit	£1,109	£1,090	£994	£1,017	£1,020	£1,074	£1,051
Average standard credit	£0	£0	£1,069	£0	£0	£1,174	£1,121
Average PPM	£0	£0	£0	£0	£0	£0	£0

Source: Consumer Focus price comparison factsheets

Based on an average gas consumption of 20,500kWh and an average electricity consumption of 3,300kWh per annum.

Where £0 or N/A is shown in this table, this indicates that the supplier does not have that payment option available.

Prices inclusive of VAT.

The table shows that the average difference between a dual fuel prepayment meter tariff and a dual fuel on-line Direct Debit tariff was £190 in September 2009. This means that a typical dual fuel prepayment meter consumer receiving a social tariff for both fuels would have been £190 better off than if he/she was not on a social tariff. The consumer would therefore receive greater benefit from a social tariff than the proposed discount.

Consumer Focus therefore considers that the discount should be set at a similar level to the average differential between the cheapest (usually, on-line Direct Debit) and the most expensive (usually, prepayment) tariff. If the level of discount is not comparable with social tariffs, eligible consumers will not be certain whether they are better off under the energy costs support scheme or under a supplier's existing social tariff (assuming they also fit the eligibility criteria set by the supplier). It would also make it very difficult for advice workers to provide accurate advice.

Consumer Focus has long advocated a reduction in differentials between payment methods. We do not consider that the way in which a consumer pays his or her fuel bill should make so much difference to the size of that bill. We recognise that the recent Ofgem licence condition on cost reflective pricing has helped reduce differentials between prepayment and standard credit tariffs. However, we would like to see further action to reduce the differential with Direct Debit and on-line tariffs. Many low income consumers are not able to take advantage of Direct Debit facilities and many either do not have access to the internet or are not able to use on-line facilities.

Consumer Focus expects differentials to decrease considerably with the advent of smart metering. In this context, we would support a fixed sum discount on the assumption that this would exceed the average differential between payment methods. We consider that the size of the discount should be fixed such that it makes a significant impact on consumers' ability to pay their fuel bills. We also consider that the Government should consider introducing a two tier discount, with a higher level discount offered to eligible consumers living in hard to treat properties (those off the gas network and/or built with solid walls).

Question 5

Government believes that a single qualifying date rule is the simplest way to determine eligibility for help, and will be easiest to explain to the target group. We would be grateful for consultees' views on our proposals about how to set the qualifying date.

Consumer Focus Response

Consumer Focus accepts that a simple qualifying date will make it more straightforward to administer the pilot, although we would be concerned should some eligible consumers miss out due to DWP delays in processing Pension Credit claims. However, we consider a more robust system will be required for the social price support scheme. This may involve regular runs of data matching to take account of new claims and changes in eligible households' circumstances.

Question 6

Government has taken statutory powers to allow a bulk data share to take place. There is no legal requirement to offer an opt out. We would like consultees' view on whether our offer to accommodate requests from individuals to opt-out is reasonable.

Consumer Focus Response

Consumer Focus's general position on data sharing is that consumers should give clear, positive, informed, opt in consent for any use or sharing of personal information. Utilising statutory powers to allow a bulk data share should only be carried out in exceptional and objectively justified circumstances.

We support the 'energy cost support scheme' as an exception only because we recognise that the DWP will not provide the discount through an increase to Pension Credit rates because of the implications for public expenditure. We also recognise that an 'opt-in' regime would not achieve the same results, given the general problem of under-claiming of benefits in this country and evidence from the DWP's annual winter mail-out, which encourages consumers on Pension Credit to take up suppliers' social assistance measures/social tariffs. We understand that last year's mail-out only achieved an 8% response rate and a 2% actual take-up rate.

Consumer Focus is concerned that the proposals do not make sufficient provisions for 'opt-out'. We note that the Age Concern/Help the Aged research found that older people considered it important that consumers were offered the option of an 'opt out'. Consumer Focus recognises that the vast majority of eligible households will want to take advantage of a discount on their fuel bills. However, under the current proposals consumers wishing to opt out of the scheme will first need to know that the scheme exists and that they will need to take proactive action to opt-out.

Given that the DWP does not intend to publicise the scheme, we consider this too high a hurdle for such consumers and will have a significant impact on trust and confidence. We would therefore urge the DWP to provide clear information about the scheme in advance of the pilot, including a statement agreed with consumer groups about the right to opt out, and to provide a helpline to support any queries or complaints.

Consumer Focus considers the DWP should make sure consumers fully understand the benefits of data sharing and the reasons behind it. The DWP should publicise the scheme, explain how data will be shared, the arrangements for data protection, the involvement of EDS and the right to opt out. The DWP should provide a helpline for consumers wishing to know more about the scheme and how it will work. In the longer term, new claimants for Pension Credit (and other qualifying benefits) should be informed that their data will be shared for the purpose of providing a discount on fuel bills.

Question 7

We would be grateful for consultees' views on how any exceptions to the automatic process may be dealt with.

Consumer Focus Response

Consumer Focus considers it important that the DWP publicises the scheme and the eligibility criteria. The DWP should provide a helpline for consumers who think they are eligible but were not 'data matched'. The DWP should also write to eligible consumers who are not data matched and inform them of their right to a discount. The information would need to explain the procedures for claiming the discount and how to obtain further information. We would also encourage the DWP to work with voluntary and community organisations in close contact with eligible households to help 'non-matched' households make a claim.

Consumer Focus is concerned that the consultation intends to exclude consumers already in receipt of a social tariff or rebate. We consider this adds unnecessary complexity to the scheme, given that it will require consumers to establish whether they are better off with the discount or with their existing social tariff. This is particularly the case for supplier schemes that do not meet the Ofgem criteria for social tariffs, since some rebate and discount schemes offer relatively small benefits. Even for social tariffs, some consumers such as those paying by Direct Debit may benefit more from the discount than the social tariff. The proposals for exclusion will also make it very difficult and complex for advice workers to establish the most suitable provision for clients.

Consumer Focus is also concerned that the proposal to exclude existing beneficiaries of supplier schemes will undermine the advice of the Information Commissionaire, namely that data sharing is only acceptable if it provides a direct benefit to beneficiaries. We understand that suppliers intend to exclude existing social scheme beneficiaries from the data matching exercise. However, as stated above, some existing beneficiaries may be better off under the 'energy costs support scheme'. We therefore urge the DWP and suppliers to offer the discount to all households who meet the eligibility criteria, regardless of their existing tariff.

In the longer term, Consumer Focus favours a scheme in which the Government determines eligibility for 'social price support'. We would like suppliers to maintain a small discretionary fund for consumers in need who do not meet the mandated criteria. We consider bona fide advice agencies could play a valuable role in referring clients onto this fund.

Question 8

We believe the regulations safeguard people's data but would be grateful if consultees would let us know if they think the offences do not cover all the issues.

Consumer Focus Response

Consumer Focus recognises that the DWP has worked closely with the Information Commissionaire to make sure that the scheme meets data protection requirements. For the scheme to be acceptable and successful, the data must be:

- fairly and lawfully processed
- processed for limited purposes
- adequate, relevant and not excessive
- accurate and up to date
- not kept for longer than is necessary
- processed in line with individuals' rights
- secure
- not transferred to other countries without adequate protection

It is essential that suppliers do not use the DWP information for cold calling and marketing purposes. This was a key concern of the older people who took part in the Age Concern/Help the Aged research.

Given that the scheme represents a departure from standard data protection procedures, we consider the DWP should conduct a full privacy impact assessment with respect to the details of the scheme. This assessment needs to identify who the data is being shared with, specify what data is being shared and the specific purposes for which it will be used. Security needs to be audited and all handling needs to comply with the Cabinet office requirements for data handling and Information Systems Security Standards. Transfers must accord with the departmental Secure Data Transfer Strategy.

Because the proposal involves the transfer of public data to the private sector the use of privacy by design principles and Privacy Enhancing Technologies need to be employed.

Question 9

We believe that in drafting these Regulations we have given due regard to equality (including disability, gender and race) in decision making any subsequent processes but please let us know if you believe there is any equality matter that we have overlooked or opportunities for promoting equality that we could exploit better.

Consumer Focus Response

The scheme by its nature targets certain groups and provides a degree of discretion to the energy companies in the matching process and so there is potential for profiling and discrimination. A full Equality Impact Assessment needs to be conducted once details of the scheme are settled.

Contact details

For further information on this response, please contact:

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