

Briefing Note

Millions of businesses, charities, schools, faith groups, sports and social clubs across the UK may be owed tens of thousands of pounds in compensation by energy companies.

Harcus Parker is bringing a claim against various energy suppliers on behalf of businesses. The claims allege that secret commissions were paid by energy suppliers to brokers (or 'third-party introducers') when contracts for the supply of gas or electricity were arranged. The failure of energy companies to tell their customers that they paid brokers these 'bribes' means that this money can now be claimed back by their customers.

Over the past ten or so years, when energy supply contracts have been arranged or facilitated by a broker, a practice has developed whereby the supplier will pay a 'commission' - calculated as an uplift on the unit price of energy - to the customer's broker. If this commission is not disclosed to the customer, and if the customer does not give fully informed consent to it, then a claim in the tort of bribery arises and the customer is entitled to be paid a sum equal to the commission plus interest. Further claims pay also be possible if the customer was led to expect that the broker would obtain the best price available in the market.

It is an essential feature of the claims that the potential claimants do not know what commissions they may have paid or the manner in which they have paid them. It is necessary as a preliminary step for us to make enquiries of the supplier on behalf of potential claimants.



The table below shows the scale of potential recoveries for claimants:

		Combined (gas and electricity) annual energy usage (kWh)				
		60,000	80,000	100,000	200,000	500,000
Total commission paid assuming a three-year contract	2p	£3,600.00	£4,800.00	£6,000.00	£12,000.00	£30,000.00
	3p	£5,400.00	£7,200.00	£9,000.00	£18,000.00	£45,000.00
	5p	£9,000.00	£12,000.00	£15,000.00	£30,000.00	£75,000.00
	10p	£18,000.00	£24,000.00	£30,000.00	£60,000.00	£150,000.00

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We have seen evidence that suggests many suppliers will have paid commissions of between 2p and 3p per kWh of energy. Some suppliers set a maximum commission (which in certain circumstances we understand to have been as high as 10p per kWh); others did not, allowing commissions of any level to be sought by brokers. Microbusinesses have been particularly exposed to suppliers' and brokers' abusive conduct.



The claim will be administered collectively and in a cost- and time-efficient way. Harcus Parker is proposing to act on a ‘no-win, no-fee’ basis, so that no upfront payment will be requested. Harcus Parker’s fee will be calculated as a proportion of any damages received.

Harcus Parker’s fee will be 33% plus a proportionate share of our out-of-pocket costs incurred in running the claim, plus VAT (if applicable). The total fee payable will never be more than 35% plus VAT, which most businesses will be able to reclaim. Offset against this will be any costs recovered from our opponents. This ought to mean that the ultimate split of any damages received is approximately 70:30 in favour of the client. We have also committed to donating 2% of any damages received (or, in other words 6% of our fee) to a number of charities whose aims are related to fuel poverty or the cost of living crisis.

Although the usual rule in English High Court litigation is that the losing party is at risk of paying the costs of the winning party, we have arranged a policy of insurance to cover up to £10m of such ‘adverse costs’, and will keep the issue under continuous review so that insofar as it is possible to do so, all risk will be eliminated. We have also worked to develop a client ‘onboarding’ system that will minimise the amount of time needed by our clients to instruct us and to provide the information necessary to bring claims.

We are able to share on request a public-facing opinion from our team of barristers led by Adam Heppinstall KC which summarises the legal basis of these legitimate and well-founded claims which represent a significant contingent asset of their businesses. We will first ask you to sign a simple confidentiality agreement.

The initial step is to instruct us to investigate whether you have paid commissions. In order to do so, you will have to complete a letter of authority. If you have unknowingly paid commissions, the claim is a potentially valuable asset Harcus Parker can help you to realise.

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About Harcus Parker

Harcus Parker is a commercial and group litigation law firm based in London. Damon Parker founded Harcus Parker in 2019. Damon and his team built a highly successful Group and Commercial Litigation Practice at Harcus Sinclair LLP, acting in many of the UK’s highest profile group actions on behalf of shareholders and consumers. Damon and his partners are recognised market leaders in group litigation, case management and litigation funding. This was acknowledged by The Times when it selected Harcus Sinclair LLP as one of its Best Law Firms of 2019 and named three of the team’s previous cases: the Lloyds / HBOS acquisition case, the Tesco equal pay claim and the VW emissions action in its write-up.