MONEY ADVICE TRUST

BUSINESS DEBTLINE | NATIONAL DEBTLINE | WISER ADVISER

Consultation Response:

Ofgem Consultation on framework for consumer standards and policy options to address priority customer service issues

Response by the Money Advice Trust

Date: May 2023

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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.

In 2022, our National Debtline and Business Debtline advisers provided help to 140,980 people by phone, webchat and our digital advice tool with 1.87 million visits to our advice websites. In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2022 we delivered this free training to 2,780 organisations.

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.

Public disclosure

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

Executive summary

We welcome the opportunity to comment on the Ofgem consultation on a framework for consumer standards, and how to address priority customer service issues.

- ✓ Generally, we would suggest generalist teams should be required to transfer to specialist vulnerability and debt teams that have extra training and are empowered to resolve queries and remedy complaints. These teams should be a requirement for all energy suppliers.
- ✓ We would strongly support the call for suppliers to be required to provide a dedicated third-party line for debt advice charities and other consumer groups to contact specialist trained teams within energy suppliers on behalf of vulnerable clients.
- ✓ We would like to see Ofgem being more prescriptive in setting out the time that someone should have to wait to get through to a supplier and to get resolution to their problems. This means that it is more important to staff at peak times to ensure proper customer service whilst keeping 24-hour lines for emergencies.
- ✓ There should be a requirement on suppliers to resolve the query, and to ensure that any queries that cannot be resolved at that point, are followed up and resolved. This follow-up process should be rigorously monitored by the supplier.
- ✓ We very much support the proposal to end minimum repayment rates for debt repayment plans as a good step forward, but believe Ofgem should go further.
- ✓ Ofgem should make it extremely clear in the rules that such **repayment plans** must be worked out with the consumer, and based upon what **is affordable for them** using an objective tool such as the Standard Financial Statement.
- ✓ It should be **clear that suppliers can set a zero payment or payment freeze** with a regular review of circumstances for any customer in this situation.
- ✓ Where it is clear that a customer has **multiple debts** when the supplier discusses their financial situation with them, they should be **signposted or referred to independent free debt advice.**
- ✓ We are pleased to note that one of Ofgem's areas of focus is on debt recovery as part of the PPM review. We would like to see guidance that **suppliers need to proactively establish ability to pay before they can proceed to collection and enforcement methods.** We believe that Ofgem should consider a licence **ban** on the use by suppliers or debt collection agencies or **High Court enforcement** to recover energy arrears.
- ✓ Ofgem should be leading work with suppliers and charities to develop proposals for a **funded pot that would offer debt write-off and repayment matching schemes** to deal with debt that is building up in a fair way.

- ✓ Requiring suppliers to clearly display website hyperlinks to customer service data from Citizens Advice is a limited response to the problem of supplier culture failing to value and prioritise the delivery of quality of service to customers but is a good first step.
- ✓ We think the decision for Ofgem to publish its own league table of supplier customer satisfaction would be a good next step.
- ✓ Sanctions for poor customer service such as fines should be considered, if there is no improvement in the short term.
- ✓ We would like to see the development of further reputational based incentive and deterrent options as soon as possible.

We welcome the proposal to create an overarching framework for consumer standards and the aim of providing "*a more cohesive and holistic approach*". We strongly support building up the existing monitoring, compliance and enforcement functions to ensure compliance and good consumer outcomes.

Responses to individual questions

Questions relating to our approach to addressing priority customer service issues –Chapter 3

Question 1: Do you agree with our assessment on what good looks like for the issues consumers are facing relating to the priority issues of contact ease and identification and support/advice for consumers struggling with their bills. Are there any issues missing?

We are concerned that the Ofgem assessment of what a good outcome looks like for contacting suppliers is not more explicit in setting out the time that someone should have to wait to get through and to get resolution to their problems. It should be possible to go beyond "contact their supplier in a timely manner" as this leaves too much discretion for individual suppliers to make their own decisions as to what a "timely" response should be and how long it is acceptable to wait. We would like to see Ofgem being more prescriptive.

On the other hand, it is very useful to see an acknowledgment that getting through is not the same as getting a resolution to the problem. We have seen too many case studies where queries are not resolved at the point of contact, notes are not kept, and the consumer has to start their query all over again after another lengthy wait. There should be a requirement on suppliers to resolve the query, and to ensure that any queries that cannot be resolved at that point, are followed up and resolved. This follow-up process should be rigorously monitored by the supplier. In addition, there should be a clear escalation route for consumers who want to take their query further.

We very much support the proposal to end minimum repayment rates for debt repayment plans as a good step forward, but believe Ofgem should go further. For advice and support for people struggling with bills, we believe that Ofgem should strengthen the wording around "offered suitable repayment plans" and "appropriate repayment plans". Ofgem should make it extremely clear in the rules that such repayment plans must be worked out with the consumer, and **based upon what is affordable for them** using an objective tool such as the Standard Financial Statement. If suppliers are allowed to set minimum payment amounts for arrears payments, or work out their own payment plans and offer them to consumers without taking into account consumer individual circumstances, and call these plans "suitable" or "appropriate" then this is not a good outcome for the consumer in arrears with their energy.

We believe the wording should be strengthened to make it explicitly stated that an appropriate repayment plan can result in a consumer with no available income to pay arrears, or who is in a negative budget (their household bills are higher than their income) paying nothing towards the arrears. It should be clear **that suppliers can set a zero payment or payment freeze** with a regular review of circumstances for any customer in this situation.

Suppliers should not be pushing people to organize a repayment plan without exploring whether they have other debts, as the plan is likely to be unsustainable. Where it is clear that a customer has **multiple debts** when the supplier discusses their financial situation with them, they **should be signposted or referred to independent free debt advice.**

These affordable repayment rules should apply to any third-party debt collection agencies appointed to collect arrears on behalf of the supplier.

We are pleased to note that one of Ofgem's areas of focus is on debt recovery, stating what good looks like.

"Suppliers tailor debt paths according to consumer situation. Debt recovery actions are fair and proportionate."

We understand that this area is being taken forward as part of the Ofgem involuntary PPM workstream. However, we would not like to miss an opportunity to raise our concerns about any trend amongst suppliers to substitute installation of a PPM or an affordable payment arrangement with the use of county court judgments to recover energy arrears.

As energy debt is not regulated under the Consumer Credit Act 1974, any forthwith judgment or a judgment that is defaulted upon that is over £600, can be transferred to High Court for enforcement.[1] This is an arcane, intimidating and complicated process which can result in addition fees added by High Court Enforcement Agents of £760 plus 7.5% on any amount owed above £1,000.

Ofgem must ensure that customers struggling to afford their energy bills and to repay arrears are not subject to collection or enforcement activities that will only make their situation worse.

Ofgem should ensure suppliers are complying with existing licence requirements that people should not be subject to inappropriate debt collection if they cannot afford to pay. To strengthen this, we would like to see guidance that **suppliers need to proactively establish ability to pay before they can proceed to collection and enforcement methods** such as: pursuing court action, issuing warrants to install prepayment meters, referring to debt collection agencies, issuing county court judgments, and instructing high court enforcement officers.[2]

[1] https://nationaldebtline.org/fact-sheet-library/high-court-enforcement-ew/

[2] https://moneyadvicetrust.org/media/documents/Joint_debt_advice_charities_briefing_Ofgem_energy_debt_-_July_2022.pdf

We believe that Ofgem should **consider a licence ban on the use by suppliers or debt collection agencies or High Court enforcement to recover energy arrears**, particularly for vulnerable groups and people on low incomes. At the very least there should be a robust protocol in place to protect consumers who are in energy arrears from such action. This should also apply to consumers who have failed to engage or respond to intimidating requests for payment. They may be too afraid to do so. There should be the end to the assumption that failure to engage means that a consumer is not vulnerable, and that further action is therefore allowed.

We would like to see **Ofgem leading work on how to deal with increased energy debt as a result of exceptionally high energy prices.** Having a clear plan on this would enable Ofgem to put in place increased protections for consumers while being confident there is a longer-term plan to bring debt down in an affordable way.

Note, these proposals on arrears would serve to complement thinking around social tariffs, and not be a substitute for discussions on how to make ongoing bills more affordable.

We are thinking specifically about people who are building up arrears and currently unable to afford to put anything towards these, or only a token amount. While recognising this is an over-simplification, when prices fall in due course back to more 'normal' levels, **we expect customers will broadly fit into one of three groups**.

- ✓ Able to now repay towards arrears (as ever, this always needs to be done affordably by suppliers and based on an accurate assessment of someone's ability to pay, and the time they need for this) and not according to arbitrary timescales.
- ✓ Able to repay something towards arrears but only a relatively small amount, meaning it would take them a long time to pay back arrears.
- ✓ Not able to afford to pay anything back towards arrears on top of paying ongoing usage.

For the first group, we need to see good enforcement of existing ability to pay rules and supervision of suppliers by Ofgem to ensure they are putting in place genuinely affordable repayment plans over the necessary timeframe – rather than plans that are restricted by an arbitrary repayment period limit set by the supplier.

For the second and third groups, our preferred option is for **a funded pot that would offer debt write-off and repayment matching schemes** (for example, where customers could afford a small amount, for every £1 they pay, £1 could be written-off etc). We are aware that such schemes have been used to good effect in the water sectors and by energy suppliers too (see examples in box 1).

Ofgem should be leading work with suppliers and charities to **develop proposals for a funded pot that would offer debt write-off and repayment matching schemes** to deal with debt that is building up in a fair way.

Question 2: Do you have any views on potential options to address priority issues and do you agree with the extra requirements we are proposing?

In many cases, suppliers should already be providing proper customer service and have failed to do so, and are therefore not in compliance with current requirements.

We agree with the extra requirements that are proposed, but as we have said in our answer to question 1, these do not go far enough in some areas and need to be strengthened.

In table 3 in the paper, there are proposed options for methods of contact which differ as to whether they should be available for extended opening hours or go as far as 24 hours a day, 7 days a week. It would presumably require a great deal of extra staffing to do the latter. On the other hand, there should be a team available at all times for vulnerable customers who need support with going off supply and emergency credit queries.

Generally, we would favour generalist teams with staffing enhanced so that waiting times are reduced at peak times with better staffing levels. They should be required to transfer to specialist vulnerability and debt teams that have extra training and are empowered to resolve queries and remedy complaints. These teams should be a requirement in all energy suppliers. Extended 24-hour teams will still be required for emergency situations such as going off supply and so forth.

Question 3: Do you have any evidence that suggests that we should be considering additional and/or different rules beyond what we have proposed?

We would strongly support the call for suppliers to be required to provide a **dedicated third-party line for debt advice charities and other consumer groups** to contact specialist trained teams within energy suppliers on behalf of vulnerable clients. As well as resolving the cases of consumers in vulnerable circumstances, this would have an enhanced impact on the ability of the debt advice sector to deal with cases smoothly and efficiently. Crucially, the specialist teams must be empowered to actually deal with the query and not refer on to other teams in an endless contact loop.

Question 4: Do you agree with our proposed approach of introducing reputational incentives in our priority areas?

The idea of requiring suppliers to clearly display website hyperlinks to customer service data from Citizens Advice is a limited response to the problem of supplier culture failing to value and prioritise the delivery of quality of service to customers. As the paper says, these should be considered as *"potential initial steps towards introducing more developed incentives in the future".* We would therefore support this approach as a first step. However, it does not appear to be sufficient in itself. Maybe Ofgem should consider adding such messages to all bills and communications. In addition, we think the decision for Ofgem to publish its own league table of supplier customer satisfaction would be a good next step. Sanctions for poor customer service such as fines should be considered, if there is no improvement in the short term.

We would suggest that Ofgem should **prescribe the wording and design** of the links to ensure that suppliers to not either hide the information or obscure its impact by using different descriptions. In addition, there should be a clear prescription as to the prominence of such messaging and where it should be displayed on supplier websites.

A future requirement could be considered by Ofgem to ensure that suppliers fund independent free debt advice services at a level consistent with their arrears figures, or along the lines of the FCA levy on financial services. We would see this as a very substantial reputational incentive on suppliers.

Questions relating to Assessment and Monitoring of Options -Chapter 4

Question 5: Do you agree with what we have set out in the assessment chapter? Please provide supporting evidence with your views. For evidence regarding additional costs, please provide quantitative data.

However, we would not have thought that the new standards being a barrier to entry into the market would be a pertinent point at this stage, as there is effectively little or no competition in the current energy market.

As we are not a supplier we are unable to provide evidence of additional costs that might fall upon suppliers.

We would certainly agree that making it easier to contact suppliers will lower the burdens on third-party organisations such as consumer groups and charities struggling to contact suppliers on behalf of their clients. However, unless there is a strict rule setting out how long it should take for the supplier to answer the phone, then being able to find the contact number more easily, will be of little benefit.

As we have said, we would strongly support the call for suppliers to provide a dedicated third-party line for debt advice charities and other consumer groups to contact specialist trained teams within energy suppliers on behalf of vulnerable clients. This would have an enhanced impact on the ability of the debt advice sector to deal with cases smoothly and efficiently. Crucially, the specialist teams must be empowered to actually deal with the query and not refer on to other teams in an endless contact loop.

We agree that a positive duty on suppliers to proactively agree affordable repayment plans with consumers will theoretically reduce the burden on third party organisations trying to make payment arrangements on behalf of their clients. This will not have the desired effect unless Ofgem make it extremely clear in the rules that such repayment plans must be worked out with the consumer, and based upon what is affordable using an objective tool such as the Standard Financial Statement. If suppliers are allowed to set minimum payment amounts, or work out their own payment plans and offer them to consumers without taking into account consumer individual circumstances, then this will just add to the work for advice agencies, dealing with failed plans, extra arrears, or trying to contact suppliers to ask them to reconsider and set up an affordable plan. For example, under no circumstances should suppliers be allowed to set payment levels based on an arbitrary payment period e.g. you must clear this debt in 12 months which works out at £x a month whether affordable or not.

Question 6: Using the list of prospective data items we present in the monitoring chapter as a guide, what other additional data items could we aim to collect and from what data sources? Do you consider there are any challenges you may face when collecting/providing these? If so, please provide any supporting evidence you have.

We would suggest additional data items that would assist with assessing how suppliers have provided advice and support for people struggling to pay and where they have failed to do so, and this has caused poor outcomes for vulnerable customers.

For example, if Ofgem fails to put in place good alternatives for debt repayment arrangements in place of enforced PPM installation, we can expect suppliers to turn to recovery methods such as the use of county court judgments enforced via high court enforcement agents at great additional cost and trauma for customers. If this data is not collected, then Ofgem will be unable to spot worrying trends in collections by particular suppliers if they adopt such an approach.

- ✓ Collate the numbers of consumers actively signposted to sources of free debt advice.
- ✓ Collate the suppliers who actively fund debt advice services, and by what amount.
- ✓ The number of consumers who go on to a PPM voluntarily.
- ✓ The number of consumers who go on to a PPM unwillingly or by forced installation.
- ✓ The number of consumers sent to a debt collection agency for collection of arrears.
- ✓ The amount of consumers who have been taken to court by their supplier and now have a county court judgment for energy debt.
- ✓ How many consumers have had that judgment enforced, e.g. by use of high court enforcement agents.

We are unable to comment on the challenges for suppliers in collecting this data.

Consumers Standards Framework- Chapter 5

Question 7: Do you have any comments on the factors that should be considered in determining whether to use principle-based or rule-based approach to setting standards?

We welcome the proposal to create an overarching framework for consumer standards and the aim of providing "*a more cohesive and holistic approach*". We strongly support building up the existing monitoring, compliance and enforcement functions to ensure compliance and good consumer outcomes.

Given the energy supplier consumer service shortcomings that has prompted this consultation, we would favour a rule-based approach to ensure that suppliers meet measurable rules. As the paper says: "*these will generally be used where there is a need to prevent a particularly detrimental activity or require a supplier to act in a specific way.*"

We would suggest that the requirement to address priority customer services issues fall into this category. It should be possible to set detailed and measurable rules for suppliers offering a variety of contact methods, answering queries within a designated timeframe, and resolving customer queries within set parameters.

More broadly, we would suggest that Ofgem looks at developing its broader principle-based standards to develop a new level of regulation based upon the FCA's consumer duty approach which would put an onus on suppliers to achieve good consumer outcomes. This approach has been suggested by Citizens Advice in its "Raising the bar" report.[3] The consumer duty goes well beyond an overarching requirement to "treat customers fairly" and allows for more robust monitoring and enforcement processes to be put in place. Such an approach could form part of the framework for consumer standards.

Question 8: Do you agree with our early view of reputational based incentive options for winter 2023 and the potential incentive options for development over the longer-term? Please provide explanations to support your responses.

We support putting the incentives, as set out in the paper, in place for winter 2023 as suggested.

We would like to see the development of further reputational based incentive and deterrent options as soon as possible. Whilst a test and trial of such options appears to be a good idea, it can also mean delays in putting remedies in place.

As we have said, we feel sanctions for poor customer service such as fines should be considered as a priority, if there is no improvement in the short term.

For more information on our response, please contact:

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