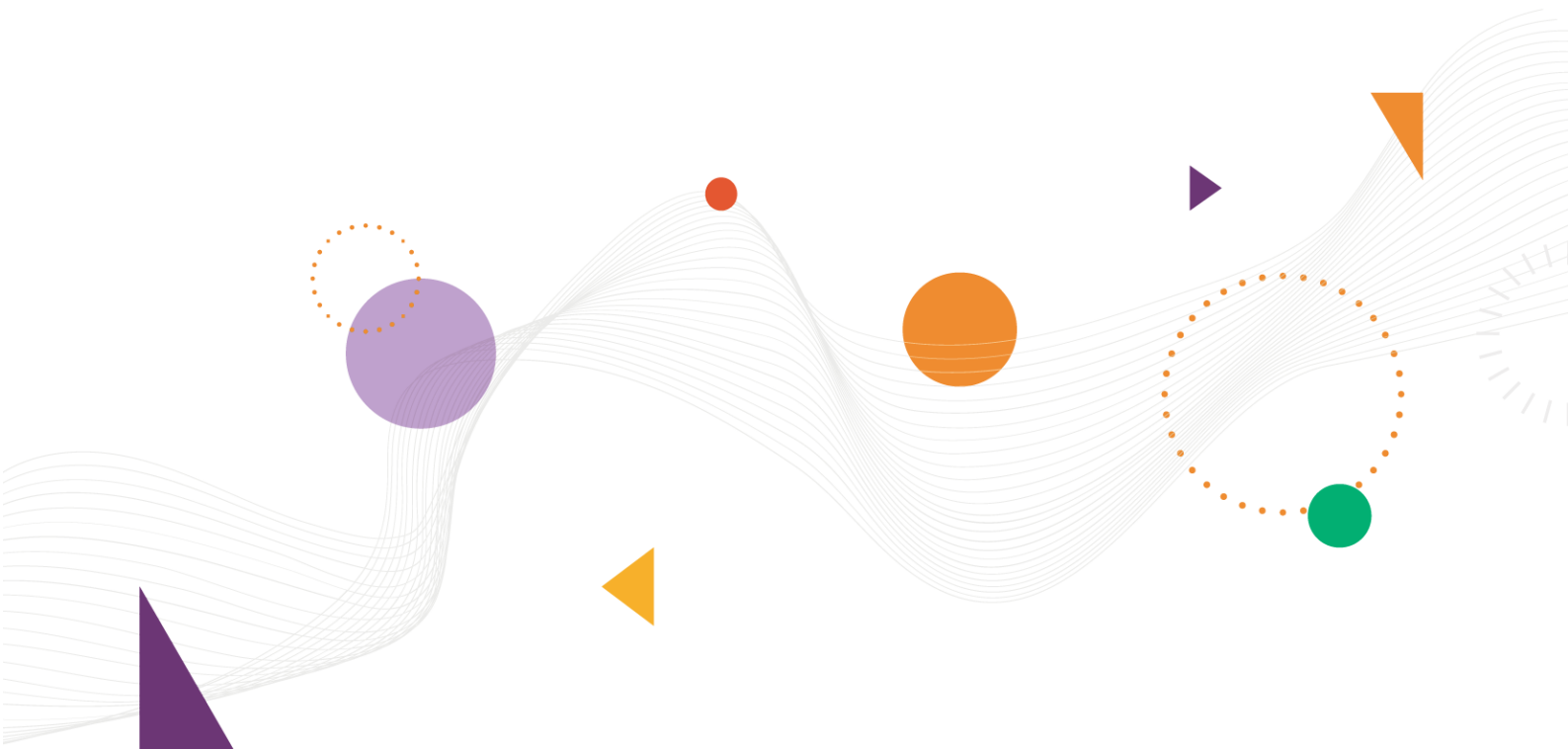


StepChange response to Ofgem Consultation on framework for consumer standards and policy options to address priority customer service issues

May 2023

Contact: ed.mcdonagh@stepchange.org

StepChange Debt Charity London Office Floor 3,
27 Queen Anne's Gate, London SW1H 9B



Summary

We welcome Ofgem's proposal for a consumer standards framework. We continue to see energy suppliers failing to deliver for the financially vulnerable consumers. We agree that consumers face problems in the areas identified by Ofgem – contact ease and identification and support for those struggling. The rules proposed in these areas look positive and should add to the current consumer protections contained in the licence conditions. We particularly welcome proposals to end the minimum payment requirement for consumers who fall into arrears. This will bring the sector more in line with best practice debt advice principles where individuals should only ever be required to pay what they can afford.

We would like to see some additional clarity in the following areas:

- Assessments of a consumer's ability to pay should be conducted using the Single Financial Statement (SFS) (the Common Financial Tool (CFT) in Scotland) to ensure consistency across the sector and with debt advice. There should not be room for suppliers to argue that repayment plans are 'suitable' without evidence from an SFS form.
- There must be stronger rules around proportionate debt enforcement. We continue to see consumers in vulnerable circumstances facing inappropriate bailiff enforcement. Rules should make it clear that certain demographics should not be threatened with or face this kind of enforcement. We would also like to see a requirement for all bailiffs used by suppliers to be accredited by the Enforcement Conduct Board.
- Communication from firms to consumers facing difficulty must be carefully designed and worded. Ofgem should propose a test and learn approach to ensure suppliers are honing the content of their communications to maximise engagement.
- Referral mechanisms must be effective for consumers and support organisations. We welcome efforts to reduce wait times. Outcomes for customers struggling with debt would be aided by having separate lines for support organisations calling on behalf of clients.

We also welcome Ofgem opening discussion around the form rules should take and proposals for reputational incentives. We would strongly advise the use of prescriptive rules where customers in vulnerable situations are affected. Evidence from other sectors suggests that without explicit rules, performance from firms in supporting these groups can be inconsistent. We support the use of reputational incentives but only as an additional tool alongside a strong monitoring and investigatory regime. We support the widest possible transparency of firm performance in relation to consumer standards and would like to see metrics published across firm, regulatory and price comparison websites.

The increase in debt caused by the surge in energy costs together with strengthened debt conduct rules are likely to add to the case load of debt advice firms. We do not think that this additional capacity requirement is recognised in the proposals. Energy suppliers are not required to fund debt advice for the service they provide in supporting consumers in arrears. The vulnerability of clients who fall behind on these bills mean cases are often complex and require unpicking of multiple debt problems. There must be moves to address this funding shortfall as Ofgem develops its plans to improve the conduct of energy suppliers in this area.

Responses to questions

Our approach to addressing priority customer service issues

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?

Contact ease

Overall Ofgem's assessment of what good looks like for contact ease looks adequate. Timely and accessible customer service channels are essential for consumers in vulnerable circumstances.

The reference to 'timely' as a good outcome must relate to waiting times as it is often this, rather than opening hours, that is the main problem for consumers contacting their supplier. This is also a problem for debt advisers ringing on behalf of clients, who often find themselves waiting for lengthy periods to access customer service teams, reducing the time they have available for providing vital debt advice. We would like to see a dedicated debt advice phoneline for advice providers as well as a reduction in wait times.

We agree that providing contact methods that meets the needs of vulnerable consumers is a key element of a good consumer service. It will be important for rules to clearly define specific vulnerability needs for this rule to be effective.

Identification and support/advice

We also agree with Ofgem's assessment of what good looks like in this area. We welcome the commitment to end the need for minimum debt repayments. Best practice debt collection should be based on an assessment of means and affordability, with the expectation for nil or token payments in cases where individuals are in a deficit budget.

2. Do you have any views on potential options to address priority issues and do you agree with the extra requirements we are proposing? Please supply evidence to support your response.

Contact ease

The options for addressing issues with contact ease look positive. There are a few areas where we see the need for additional clarifications:

- It would be useful for firms to have specialist phone lines for advice organisations so that advice workers supporting clients with serious financial problems (or other difficulties) do not face long wait times.
- There should also be a requirement for direct referral channels to relevant support organisations like free advice providers which allow consumers to be passed directly through to specialist support. This would need to be combined with adequate staff training and internal processes to ensure referrals were made appropriately.
- We continue to see individuals passed onto StepChange when they are not in arrears or in need of debt advice. Our current data suggests 25-40% of referrals from energy suppliers are for individuals who don't need debt advice. Guidance for firms that encourages referrals must also

make clear that services, including staff training, should be designed to avoid placing undue capacity pressure on external agencies with inappropriate referrals.

- There could also be more specificity around what is meant by meeting customer accessibility needs. For example, StepChange regularly receives calls from clients for whom English is not their first language. This has often been a barrier to contacting their energy supplier or understanding communications. Standards in this area must provide clear examples of what constitutes meeting accessibility needs to ensure all supplier approaches are comprehensive.

Client Story

A client called asking for help with their energy account as their supplier had refused to set up a payment and he thought he needed to repay through StepChange. English was not the client's first language and he was confused as to how he would be paying back his arrears. His supplier had not explained the process adequately and mistakenly signposted him to StepChange.

Identification and support/advice for customers struggling

Options for improving the identification and support/advice for customers struggling also look positive. We have some comments about additional considerations and potential improvements:

- We support requirements for customers to be offered a repayment plan at the earliest opportunity. We are slightly concerned by the term 'suitable' repayment plan. All plans must be affordable and sustainable and made according to an assessment of circumstances and directly linked to ability to pay. The Standard Financial Statement (SFS) is industry standard form for assessing client budgets and setting repayment levels in debt advice. We would like to see this used consistently in the energy sector either by specialist call handlers at suppliers or via debt advice providers.
- Given this guidance is likely to lead to an increase in referrals to debt advice, Ofgem must consider the current funding deficit that debt advice organisations face providing advice to energy consumers. While some energy suppliers do provide contributions to debt advice, there is no requirement for this funding. Providing debt advice is resource intensive as individuals generally have multiple debts and increasingly are facing more extreme financial hardship. On average clients arrive at StepChange with 6 different debts and last year nearly a third of clients (29%) were in a negative budget – meaning their income was not enough to cover their essential costs after a budgeting session. These problems can take a long time to unpick and clients in vulnerable circumstances require extra support. We welcome Ofgem's efforts to improve debt management practices among energy suppliers, but this must be matched by a recognition of the role played by debt advice organisations in helping consumers with energy debts. Given the benefit energy suppliers receive from this service, they should also be required to fund it to some degree.
- We support efforts to improve identification and contact with customers who are showing signs of difficulty. We are particularly pleased to see mention of firms using data to proactively identify customers who are struggling. We see in our data that clients with a negative budget are more likely to have fuel debts than other clients. We can also see that clients with a PPM are more likely to be facing extreme financial difficulty compared to those without, they are 17% more likely to be in a negative budget. Energy suppliers should be able to identify similar trends within their customer base and use these to proactively identify consumers who may need support.

- Our evidence from financial services suggests that contact from suppliers in these cases where difficulties have been identified needs to be framed sensitively. In our 'Mixed Messages' report last year we found that nearly 90% of clients said communications they had received from financial services firms triggered negative emotions including fear. We found that most consumers did not even open communications from firms.¹ When individuals fall into difficulty, they are likely to be very nervous about opening communication that they fear will be demanding repayments or threatening escalation. It's vital that efforts to engage consumers at this stage are framed compassionately, as mentioned in Ofgem's proposals. In addition to this, suppliers should be required to apply a test and learn approach to different communication strategies and styles to constantly improve these communications based on levels of engagement.
- The proposed options do not include measures around debt collection tactics. While there is mention of 'proportionate enforcement' in the good outcomes for this area, we would like to see specific measures introduced in this area. We continue to see inappropriate use of intrusive enforcement against clients who are in vulnerable circumstances or who have not been properly supported. We have long argued for clearer rules around the use of High Court Enforcement Officers, including ending the use of HCEOs for financially vulnerable individuals like those who receive means-tested benefits. We would like to see a requirement for all bailiffs used by suppliers to be signed up and accredited with the Enforcement Conduct Board. Building on this, standards on the use of enforcement to pursue energy debt should be drawn up in collaboration with the new regulatory body.

Client story

An energy supplier contacted the client 3-4 times daily threatening bailiff action despite the client being extremely vulnerable. A bailiff was sent to the property but was unable to access it due to it being in a state of disrepair. The client has severe mental health issues which are being exacerbated by the situation but the supplier is refusing to take this into consideration.

- We strongly support ending minimum repayment rates. Last year around a third of StepChange clients with a responsibility for an energy bill were in a deficit budget (they had less income than needed to meet their costs after budget counselling). A core principle of responsible and effective debt collection is to ensure repayment rates are set according to individual means. This must include the option of nil or token repayments in cases where individuals simply do not have sufficient funds to make repayments.

Reputational incentives

We support measures to improve transparency around supplier performance and give consumers information that will improve their ability to make informed consumer choices. However, we would question the efficacy of these incentives as a primary regulatory tool for shifting supplier practices. Given our findings around the avoidant behaviour of consumers facing financial difficulties it seems unlikely that these consumers would be engaging with consumer surveys. Ofgem must also deploy other tactics to

¹ StepChange (2022), [Mixed Messages: Why communications to people in financial difficulty need to offer a clearer, better route to help](#)

understand supplier conduct in relation to this demographic and may need to use stronger enforcement measures to change supplier practices.

3. Do you have any evidence that suggests that we should be considering additional and/or different rules beyond what we have proposed? Please supply evidence to support your response.

Overall, we think the proposed rules look like a positive range of measures to tackle the issues identified. The areas we feel rules could be bolstered or improved are mentioned above. Specifically, we feel there could be mention of the need for adequate training for customer service staff, emphasis on wait times for advisers and consumers, specific mention of affordability and the SFS budget tool, a requirement for a test and learn approach to customer communications and specific measures to ensure a proportionate and affordable approach to debt collection.

Assessment and monitoring of the immediate options

4. Do you agree with our proposed approach of introducing reputational incentives in our priority areas? Please supply evidence to support your response.

We can see the merits of the approach as an additional tool alongside close monitoring, investigation and enforcement efforts. However, without data on how effective it has been at changing supplier practices, Ofgem should avoid over-reliance on this approach. The metrics listed by Ofgem look like a positive starting point and we would be happy to discuss measures that capture the experiences of customers in financial difficulty. We support publication of metrics as widely as possible, including on price comparison websites and other locations where individuals make switching decisions. These metrics should be tested and developed to assess how they impact consumer behaviour and supplier performance. It is likely to be highly engaged consumers who notice publication of these results and Ofgem must ensure that vulnerable groups are benefitting from sufficient regulatory focus through effective monitoring and enforcement.

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.

We are unable to comment on the impact these requirements might have on suppliers. We would, however, caution how much more effective the proposals will be compared to current licence requirements. There are already provisions for good customer service and adequate forbearance. Evidence from advice organisations suggests these rules are not consistently being followed and this is partly why Ofgem has acted to enhance consumer standards. Changing supplier culture and conduct requires not only new rules and monitoring metrics but a holistic, well-designed approach to regulation.

Ofgem might draw insight from the experience of regulation of consumer credit, where the FCA seeks to ensure customers in vulnerable circumstances are treated fairly by financial services firms. We find that FCA regulation is most effective where there is real clarity of expectations of firms set out in rules and guidance, expressed in a way that consumers can easily understand and so hold them to account via complaints and redress. This means both the regulator and consumers can affect firm conduct against key standards. With this in mind, we would welcome greater clarity from Ofgem into how it sees the effectiveness of its current approach to enforcement of rules, its view of the effectiveness of consumer complaints and redress in the energy sector, and what it now sees as the key sources of accountability ensuring firms comply with rules.

Finally, the historic underperformance of energy suppliers suggests consumers have been overpaying against the standard of service they should have been receiving. Any consideration of passing additional costs onto consumers should be made with this in mind.

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.

The list of data points looks to be an effective one for monitoring firms' performance. We particularly welcome the data points on supplier forbearance approaches. Ofgem could add additional demographic data requirements that would help to show the impact on different groups. For example, this could include visibility of the number of Warm Home Discount customers facing PPM installation or a similar breakdown for consumers completing or 'falling off' repayment plans. As noted, we would be glad to work further with Ofgem as it develops, energy debt-specific metrics. We would like to see full transparency with these, allowing external stakeholders to understand and analyse firm performance.

Consumer Standards Framework

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 broadly agree with Ofgem's analysis of the most appropriate contexts that should guide the use of principle- or rule-based standards. We believe that where rules affect customers in vulnerable circumstances, such as in the case of debt repayment, more prescriptive rule-based standards are appropriate. There is evidence for the importance of prescriptive rules in this area from the financial services sector. The FCA imposed new guidance for lenders to follow during the pandemic to ensure they were treating borrowers facing difficulty fairly. In its evaluation of how these rules were followed the FCA found that firms needed to do a lot more to adhere to the rules as they were intended. On customer engagement, for example, the FCA found that while firms were generally signposting to free debt advice in their letters only 30% were doing so during phone calls.² The rules did not explicitly mention signposting through this channel and the FCA concluded that it may have to revisit the handbook to clarify rules and guidance. This should be an instructive lesson for Ofgem when deciding what approach to take. There needs to be careful consideration of the groups affected and their circumstances by particular issues when making rules and, where consumers in vulnerable circumstances are most affected and there is a good case for setting specific expectations for firms, rule-based provisions will generally be most appropriate.

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 response

The approach to reputational incentives looks positive overall as long as this tool is used as an additional one alongside close monitoring and investigatory action. We welcome the proposals to test and trial approaches. The key will be understanding which approaches are most effective at shifting supplier practices and continuing with these. We also support increased financial penalties for non-compliance.


² FCA (2022), [Borrowers in Financial Difficulty following the Coronavirus pandemic – Key Findings](#)

Given the failure of suppliers to meet licence conditions in these areas in the past, there must be strong enforcement action for continued non-compliance. Given the acute affordability challenges faced by consumers in the current climate, adherence to these rules is essential to preventing consumer detriment.

 policy@stepchange.org

 www.stepchange.org

 @stepchange

 0800 138 1111

