

Ofgem: A 'reset' and 'reform' for customers in debt

IMA response

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Introduction

About the Institute of Money Advisers

The IMA is the professional membership body for money advisers in the free-to-client sector. Established as a charitable company in 2006, our objective is the relief and prevention of financial hardship, which we achieve by:

- promoting high standards in free-to-client money advice
- providing education and training for money advisers
- advancing the education of the public in money matters, debt and personal finance management.

We have over 1800 individual members across England, Wales and Northern Ireland, working for a range of organisations including Citizens Advice, local authorities, housing associations, national charities and independent advice centres.

The IMA's main activities are providing an accreditation scheme (incorporating a money advice qualification, a CPD scheme and a professional code of conduct), delivering specialist training and publishing a legal money advice news journal, *Quarterly Account*.

Summary

The IMA welcomes the opportunity to comment on Ofgem's proposals, both for improvements in standards for suppliers dealing with people in energy debt, and on a proposed debt relief scheme. Our detailed feedback on these proposals can be found below, but we would particularly draw attention to the following key points:

- **We strongly support the modification of SLC 27.8 to prevent energy suppliers from refusing to work with a client's nominated debt adviser.** This continues to form one of the main issues reported by IMA members dealing with energy firms. We would support broadening the scope of the proposed rule change to cover all communications from a debt adviser, not just offers of repayment, and to ensure that FCA-exempt debt advisers (such as those working for local authorities) would not be excluded from such a rule.
- **We continue to recommend that suppliers establish dedicated points of contact for debt advisers.** While Ofgem continues to explore the case for dedicated phonelines, we believe Ofgem should act immediately to ensure that other, less resource-intensive points of contact, such as email inboxes, are available so that debt advisers can contact suppliers quickly and efficiently.
- **A debt relief scheme should form a permanent part of the toolkit for dealing with energy debt.** We do not accept that the energy debt accrued during the period characterised by Ofgem as the 'energy crisis' is somehow different to the debt that energy customers continue to accrue on an ongoing basis. While prices remain high, further debt is inevitable, and there will continue to be a need for debt relief where it cannot be repaid. We would encourage Ofgem to use its proposed debt relief scheme as a pilot for a similar, permanent scheme to be introduced.

In responding to this consultation, the IMA drew on feedback from its members provided on an *ad hoc* basis over the past 12 months. Ofgem's proposals have also been discussed at regional

Money Advice Groups, including those in Greater Manchester and the East Midlands. We are grateful to the IMA Council representatives in these areas, who have provided feedback from members at their meetings to support the IMA's response.

Improving debt standards in the domestic retail market

Consumer debt outcome

We agree with the proposal for a consumer debt outcome to provide clear expectations for suppliers in dealing with people in debt.

However, while this should help provide a framework for detailed rule-making, we would be cautious of proposals to replace Ofgem's detailed rules with an overarching principle of this kind. IMA members continue to report widespread poor practice across the energy sector – particularly with regard to non-cooperation with debt advice – so it remains important for the regulator to set detailed, enforceable rules to govern the behaviour of suppliers.

Standardisation of ability to pay assessments

We agree with the proposal that suppliers should adopt the Standard Financial Statement (SFS) to assess a customer's ability to pay. This would not only ensure that all energy suppliers are on a level playing field when it comes to managing customer repayments, but also align them with the numerous other creditors who have adopted SFS, including many local authorities and the consumer credit industry.

Consistent use of SFS would also help mitigate some of the potential impacts these proposals may have on debt adviser resources, as it would reduce any additional work required to produce an 'acceptable' financial statement for an energy firm. As debt advisers already use SFS to assess a client's circumstances in order to deliver debt advice, this would not place any additional burden on them – they would simply be able to use the SFS they have already prepared to demonstrate their client's circumstances to the supplier.

We would expect Ofgem to robustly monitor energy firms' use of SFS and ensure compliance with its principles. Debt advisers have historically reported that new adopters of SFS sometimes display behaviours that are not in keeping with SFS principles – for example, demanding more detailed breakdowns of expenditure than required by the SFS, or by treating the SFS discretionary spending guidelines as hard limits and disallowing any expenditure above these without further discussion. We would expect energy suppliers to maintain dialogue with the Money and Pensions Service, as custodians of the SFS, to ensure it is being used effectively.

The consultation makes reference to a potential disadvantage that suppliers may take '*less tailored approaches to individual customer needs and circumstances*' and that it may '*stifle innovation in developing new ways of assessing ability to pay and setting repayment plans.*' We do not recognise this characterisation. The SFS is flexible enough that it can allow for innovative and tailored approaches to affordability assessments within its framework.

Finally, we would point out that the SFS is not as widely used in Scotland as in the other nations, and would encourage Ofgem and suppliers to work with the advice sector in Scotland to understand how it can be most effectively used there.

Offers of repayment from credible third parties

The IMA has consistently recommended to Ofgem that a rule should be introduced preventing suppliers from refusing to work with a customer's chosen debt adviser. We continue to receive reports from our members of debt advice clients being redirected to other advice agencies rather than accepting the information provided by the debt adviser.

We therefore support Ofgem's intention to modify SLC 27.8 to introduce a rule of this type, and welcome the comparison with the Financial Conduct Authority (FCA), who already have restrictions of this kind.

We would strongly encourage Ofgem to broaden the proposed wording of its rule to make clear that it refers to communication of any kind from a debt adviser, not just to repayment offers. Debt advisers may be assisting clients with other types of enquiry from a client – for example, a balance check ahead of an application for a debt relief order – and should not have barriers unnecessarily placed in their way.

We would also point out that not all debt advisers operate under FCA authorisation. Some of our members, such as those working for local authorities, are exempt from FCA authorisation. We would encourage Ofgem to modify its wording so that communication is accepted from debt advisers with FCA authorisation *or an appropriate exemption*.

We do not agree with the suggested risk that this approach would place an additional burden on the debt advice sector. If anything, it is likely to alleviate workloads compared to the present situation – if a client is referred to another debt advice provider, this creates additional work both for the original debt adviser and the organisation receiving the referral. Ensuring that clients are able to stay with their chosen debt adviser will reduce demand on the sector as well as creating a better client experience.

We would expect that those consumers who are able to make a payment arrangement without requiring the help of a debt adviser are able to do so, in line with accepted good practice principles (such as the use of SFS, as above). This should mitigate against any potential increase in debt advice volumes.

Third party authorisations

We agree with the proposal to ensure that suppliers have appropriate processes in place for dealing with third party representatives. We are pleased that Ofgem has acknowledged the feedback from the IMA and other consumer organisations about the difficulty and inconsistency in securing authority to act from a debt advice client.

Our view is that, if SLC 27.8 is modified according to our recommendations in the previous section, this will provide a sufficient requirement for firms to have appropriate processes in place for dealing with debt advisers. It will be clear that a requirement to communicate with debt advisers is not only for the purposes of developing a repayment plan, but for any other communication that might be required between a debt adviser and a supplier.

We do not recognise the need for Ofgem to develop a standardised template for third party authority. We agree that this may be insufficiently tailored to meet the needs of all debt advice clients. Furthermore, letters of authority that are already produced by debt advisers are widely accepted by other creditors, including providers of essential services. Producing another 'Ofgem-approved' letter of authority specifically for the client's energy supplier is likely to add to a debt

adviser's workload for no clear benefit; it would be simpler and more efficient to require energy suppliers to accept a letter of authority from a debt adviser with appropriate authorisation.

Referrals between suppliers and consumer groups and charities

We support the intention to improve referrals between suppliers and debt advice organisations, and reduce the number of inappropriate referrals. The IMA would be happy to assist in any work to improve mutual understanding of debt advice processes, to assist suppliers in developing their referral procedures according to the new standards.

On the subject of warm referrals, we would point out that it may not be appropriate to take a 'one-size-fits-all' approach to debt advice for energy customers in debt. The wording in the consultation document appears to envisage a largely telephone-based 'warm handover' process, which may not be appropriate in all cases.

Some customers, due to their preferences or vulnerabilities, may benefit from a debt advice service that is not offered by a particular agency, such as in-person support or ongoing casework. Rather than developing referral pathways to specific agencies, which may not be appropriate for all customers, suppliers should focus on understanding the range of debt advice services that are available, and support the customer to consider what types of service might suit their needs.

Dedicated phonelines

IMA members continue to stress how difficult it can be to make contact with energy suppliers, even in light of the new rules requiring suppliers to prioritise contact from vulnerable customers. We continue to receive reports of advisers spending long periods on hold to supplier phone lines, only to be answered by frontline staff who are unable to support them with their enquiry.

We acknowledge that Ofgem wants to wait for more evidence in this area, and would be pleased to support Ofgem in gathering such evidence from frontline debt advisers. In the meantime, we would repeat our call for suppliers to establish dedicated points of contact for debt advisers supporting customers in energy debt. We would point out that this does not necessarily mean that a supplier would need to establish a separate phone line – for example, an email inbox, appropriately staffed and monitored, could perform the same function. Rules to this effect could be implemented immediately, without the need to wait for further evidence on the effectiveness of dedicated adviser-only phone lines specifically.

Next steps

We acknowledge Ofgem's proposal to undertake additional policy work to understand the benefits and risks of the other options highlighted in the consultation paper. We would offer the following views:

- **Identification of financial and non-financial vulnerabilities:** We welcome the proposal to build a more holistic understanding of consumers struggling with their energy bills. Energy debt rarely exists in a vacuum, and a broader understanding of a consumer's situation can help a supplier reduce harm and develop appropriate approaches. We would

point out that greater cooperation with the debt advice sector will help towards this outcome, since these vulnerabilities are routinely identified as part of the debt advice process.

- **Fuel Direct.** While IMA members have pointed to some benefits of Fuel Direct, especially compared to prepayment meters, we continue to have significant concerns about its use as a debt recovery tool. Deduction rates, once set, can be difficult to change, and often do not take affordability into account. Moreover, when many debt advice clients are struggling even to afford the ongoing cost of fuel, recovering additional amounts via a direct deduction from their benefits is likely to push them further into hardship. We would be extremely cautious about any moves to increase uptake of Fuel Direct.
- **Debt collection agencies and court enforcement action.** We would welcome clearer guidance around expectations for suppliers using these methods to recover energy debt. We would endorse the proposal for Ofgem to collect data from suppliers on the use of these methods, to help assess whether further intervention is needed.

The case for a debt relief scheme

In principle, the IMA welcomes the proposal for a debt relief scheme to help alleviate energy debt. We have previously written to Ofgem opposing the current mechanism for ‘socialising’ energy debt through the price cap.¹

We have not attempted to respond to every aspect of the proposed debt relief scheme here, as much of the technical detail is outside the scope of our competence as a professional membership organisation for debt advisers. However, using insights from our members and their experiences of dealing with people in energy debt, we have comments on several aspects of the proposals, which are included in this section.

Purpose, extent and scope of the scheme

We agree with Ofgem’s case for a debt relief scheme as outlined in the consultation paper. IMA members deal with debt advice clients on a daily basis, and report that they frequently encounter clients in unmanageable energy debt. Many of these clients can be helped through the application of formal schemes, such as debt relief orders, to write off their energy debt alongside any other debts they have, but in some cases these options are unavailable or otherwise unsuitable, leaving the client with large amounts of energy debt that they cannot afford to repay. We therefore agree that some form of write-off is needed, to prevent these debts from continuing to affect those who are unable to pay.

However, we would question the rationale for limiting the scope of the scheme only to those who incurred their debts in the narrowly-drawn period characterised by Ofgem as the ‘energy crisis.’ While energy prices rose sharply at the beginning of this period, they have not fallen substantially since then, meaning that the bills that were unaffordable for consumers at the beginning of the ‘crisis’ period remain unaffordable now. We do not consider that the right of a consumer to have their energy debt written off should be time-limited in the way Ofgem proposes.

For similar reasons, we disagree with the proposal that the debt relief intervention should be a ‘one-off.’ Consumers continue to accrue energy debt, largely as a consequence of bills remaining at unaffordable levels and, without a fall in wholesale energy prices or significant adjustments to the price cap methodology, will continue to do so after the proposed debt relief scheme has run its course.

We would recommend that a proportionate write-off scheme for energy debt should become a permanent part of the toolkit, available to suppliers and debt advisers assisting consumers with unmanageable energy debt. This would allow for the relief of debt on an ongoing basis.

Rather than positioning the proposed scheme as a ‘one-off,’ Ofgem should treat it as a pilot for a continuing debt write-off scheme, which would persist beyond the end of 2025 and provide ongoing support for households with unmanageable debt.

We do not accept the argument that the existence of such a scheme would provide a disincentive for consumers to pay their bills. The eligibility criteria would safeguard against abuse of the scheme by allowing for independent verification of a consumer’s ability to pay. In addition, an

¹ <https://www.i-m-a.org.uk/download/15353/?tmstv=1708427768>

arrears matching scheme, as proposed, would require continued engagement and contribution from a consumer, so would be less likely to be open to abuse.

The role of debt advisers

We note Ofgem's proposal for consumer groups and charities, including debt advisers, to assist in the administration of the scheme by completing income and expenditure assessments for consumers, as part of the 'application route' towards debt relief.

We are concerned about the proposal (at paragraph 6.40 of the consultation document) that '*Ofgem would identify the participating CGCs for a debt relief scheme*,' implying that income and expenditure assessments would not be accepted from a debt adviser that was not part of an organisation pre-approved by Ofgem. This would appear to create a 'two-tier' system within debt advice, between those agencies able to offer support with energy debt relief and those unable to offer the same support.

Furthermore, such an approach would undermine Ofgem's work on debt standards, and in particular its proposal to modify SLC 27.8 to ensure that suppliers cannot refuse to work with a customer's chosen debt adviser.

To align with Ofgem's work on consumer standards, we would recommend that any authorised debt advice service (and FCA-exempt service) should be able to complete an income and expenditure assessment for the purposes of accessing the debt relief scheme. The income and expenditure should conform to the Standard Financial Statement, in line with our recommendation above.

Debt matching

The IMA has previously voiced its support for a debt matching scheme in the energy sector in the form of a 'Help to Repay' scheme.² We therefore welcome the fact that a model for debt matching has been included in these proposals.

We agree that a debt matching scheme will not help those who are unable to pay their ongoing energy costs. However, for those who are able to afford some contribution, it will make this more manageable and provide an incentive for continued engagement.

² See, for example, the Money Advice Trust's submission to the 2023 Autumn Statement on a Help to Repay scheme for energy debt, co-signed by the IMA: <https://moneyadvicetrust.org/wp-content/uploads/2023/10/Help-to-Repay-energy-arrears-scheme-Autumn-Statement-Submission.pdf>