

Consultation Response: Ofgem, Opening Statement – Strategic Review of the microbusiness retail market

Response by the Money Advice Trust

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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 2018, our National Debtline and Business Debtline advisers provided help to more than 204,000 people by phone and webchat, with 1.7 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 2018 we delivered this free training to over 820 organisations. Furthermore, Money Advice Trust Training and Consultancy services have worked with over 224 commercial organisations to identify and support their customers in vulnerable circumstances.

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.

Public disclosure

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

Introductory comment

We welcome the opportunity to input into Ofgem's strategic review of the microbusiness retail market. This response is informed primarily by insights from Business Debtline, our unique service which provides free, independent confidential debt to small business owners in debt across the UK. In 2018, we advised 34,490 people over the phone and 16,880 by web chat. We delivered 2,616 budgeting and energy saving advice sessions as part of a redress-funded project and there were 338,523 visits to the Business Debtline website.

Business Debtline clients are almost exclusively microbusinesses and are drawn from a range of different industry sectors. They are a mixture of businesses that trade from premises, which are supplied under commercial contracts as business energy customers, and home-based businesses, supplied through domestic contracts (which are not in scope for the purposes of this review).

In 2017, we commissioned and published research on *Supporting small businesses with energy debt* from the Personal Finance Research Centre at the University of Bristol.¹ This qualitative research used in-depth interviews with Business Debtline clients to explore microbusinesses' experiences of engaging with the energy market and dealing with energy debt. It revealed a number of concerning consumer and market trends, including:

- ✓ Limited engagement by microbusinesses with the business energy market;
- ✓ Low awareness of consumer rights (and even of 'microbusiness' status);
- ✓ Problematic experiences using brokers;
- ✓ Poor communication by energy suppliers (alongside some more positive experiences in places); and
- ✓ Mixed experiences of suppliers' debt management practices.

We continue to see the impact of such issues and we are pleased that many of them are reflected in Ofgem's opening statement and the Microbusiness Research Synthesis carried out to inform the review.²

We agree that the areas Ofgem has identified are among the most significant areas of consumer harm. However, we would like to highlight a number of factors which, in our view, deserve greater emphasis.

¹ Money Advice Trust, Supporting small businesses with energy debt, November 2017

<http://www.moneyadvicetrust.org/researchpolicy/research/Documents/Supporting%20Small%20Businesses%20with%20energy%20debt%20report%20and%20recommendations.pdf>

² Ofgem, Microbusiness Research Synthesis

https://www.ofgem.gov.uk/system/files/docs/2019/05/for_publication_research_synthesis_0.pdf

1. Broader challenges facing microbusinesses

Despite the idiosyncrasies of the energy market, microbusinesses do face many similar challenges in other markets, such as water, telecoms and financial services. We think there is a role for cross-sector learning here and potentially for cross-market studies and collaboration. In our recent research, *Taking Care of Business*, we highlighted eight key challenges facing self-employed people and small business owners.³ These include:

- ✓ low and uncertain incomes;
- ✓ late payments;
- ✓ use of banking products;
- ✓ a business management skills gap;
- ✓ vulnerable circumstances;
- ✓ problems with tax and benefits;
- ✓ lack of financial resilience; and
- ✓ experiences with creditors.

This research looked at Business Debtline clients as a whole, and included home-based businesses as well as businesses that trade from premises. We therefore need to exercise some caution in applying its findings specifically to microbusiness energy consumers. Notwithstanding this caveat, all of the challenges identified above affect both types of business to some degree or another. These broad challenges facing microbusinesses should be a key part of the context for Ofgem's review of the market.

2. Individual factors and vulnerable situations

In our research on *Supporting small businesses with energy debt* we found that suppliers sometimes failed to appreciate the specific features of customers' situations. We recommended at the time that more should be done to take individual circumstances into account. In subsequent research, carried out in collaboration with the Lending Standards Board, we have explored how far the concept of vulnerability can be applied to small businesses.⁴ We present below some evidence indicating significant levels of personal vulnerability among microbusiness energy consumers. Personal vulnerability is particularly relevant to dialogue around debt management, but also has an impact across the customer journey. We would welcome further exploration of these issues and their impact as part of Ofgem's on-going work.

³ Money Advice Trust, *Taking Care of Business*, November 2018, <http://www.moneyadvicetrust.org/researchpolicy/research/Documents/Supporting%20Small%20Businesses%20with%20energy%20debt%20report%20and%20recommendations.pdf>
<http://www.moneyadvicetrust.org/researchpolicy/research/Documents/Money%20Advice%20Trust,%20Taking%20Care%20of%20Business%20November%202018.pdf>

⁴ Lending Standards Board & Money Advice Trust *Supporting business customers in vulnerable circumstances*, July 2018
<http://www.moneyadvicetrust.org/researchpolicy/research/Documents/Supporting%20business%20customers%20in%20vulnerable%20circumstances%20July%202018.pdf>

Opportunities for further insight

Business Debtline is a rich source of insight into the problems facing small businesses and self-employed people across the UK. In preparing this response, we have identified some areas where further analysis may produce more focused insights to inform our understanding of microbusiness energy customers as a specific group. In particular, there may be scope to use our data to build a picture of the characteristics of financially-stressed businesses that trade from business premises. This could include data such as age, relationship status, trading status, industry type, debt types, debt levels and reasons for debt. This would need further consideration and careful scoping, but we would welcome a discussion with Ofgem about the possibilities it might present.

Responses to individual questions

Question 1: Do you agree that our theories of harm (see earlier in this document and Annex 2) represent the most significant and impactful areas of consumer detriment?

We agree that the theories of harm set out in the opening statement accurately describe the most significant and impactful areas of consumer detriment. As noted in our introductory comment and explored in more detail below, widespread personal vulnerability is an additional significant area of consumer detriment which should be in scope for Ofgem's future work in this market.

Question 2: Are there any other key areas of consumer harm that should form the focus of our review?

We speak to significant numbers of small business clients who are experiencing **personal vulnerabilities** such as mental health problems, physical illness and the impact of life shocks such as relationship breakdown or bereavement.

Personal vulnerabilities do not alter the contractual relationship between energy suppliers and their business customers. Yet the practical implications for consumers and suppliers are significant and wide-reaching. In many microbusinesses, a single individual has the sole or main responsibility for financial decision-making. Where this is the case, personal vulnerabilities can have a significant negative impact on microbusinesses' ability to engage in the market and resolve problems, at the same time as increasing the risk of individual detriment. Various features of the business energy market, such as its complexity, the propensity for bill shock and low general levels of consumer awareness, compound these problems.

Data on Business Debtline clients' *main reason for financial difficulty* gives us some indication of the extent of personal vulnerability among financially-stressed business energy consumers. We record a *main reason for financial difficulty* as part of our telephone advice process. Advisers select from 23 possible options, which can appear in combination where more than one main reason applies. An analysis of Business Debtline records from Quarter 1 2019, excluding home-based businesses, reveals a significant proportion of cases where this main reason includes non-financial personal vulnerabilities such as *physical illness or disability* (9.5%), *mental illness or disability* (5.9%); or the impact of life events such as *relationship breakdown* (6.3%) or *bereavement* (1.7%). Additionally, *income too low for basic needs* is recorded in 10.3% of cases, underlining the very-limited financial resilience possessed by many of our clients.

This data is collected primarily for internal use and should be regarded as indicative rather than authoritative. Nonetheless, we think it is a very strong indication that personal vulnerability is a factor for a significant proportion of financially-stressed microbusiness energy consumers.

We share the concerns Citizens Advice have expressed about consumers in **mixed-use premises** and echo the call for a greater focus on understanding occupancy.⁵ Too often though, vulnerability is understood in a very limited sense to apply only to situations involving disconnection and mixed-use premises. It is important to broaden out the perspective on small business vulnerability and not take too restricted a view.

Question 3: Do you think awareness raising materials/initiatives would be of significant benefit to microbusinesses? What key information should any new materials focus on and how would they best be delivered to microbusinesses?

We agree with Ofgem's view that microbusinesses often have limited awareness of the market and the deals or services potentially on offer. Our 2017 research found that few small business owners had actively engaged in the market to choose a supplier or tariff, sometimes 'inheriting' a supplier from a previous tenant or responding to a contact from a supplier/broker without looking across the market.

Our advisers report large numbers of clients who are on deemed contracts, either due to an end-of-contract rollover or a failure to take action after moving into new premises. Many are unaware that they can save money by agreeing a new contract with suppliers. Advisers also report that clients are more ready to consider switching their home energy supplier than their business energy supplier. We do not routinely collect data on contract status or switching behaviour, so we are unable to fully quantify the scale of this problem.

Budgeting and Energy Advice Service

In 2018, we introduced a new service for existing Business Debtline clients, with funding from an energy redress payment. As part of this project, we offer clients a follow-up appointment to complete a detailed income and expenditure statement and receive energy saving advice. In 2018 we delivered 2,616 sessions. Between January 2019 and May 2019 we delivered a further 1,559 sessions.

We have carried out a client survey to understand outcomes from this project. The sample size is relatively small, but the responses help shed some further light on consumer engagement and attitudes. Prior to contacting Business Debtline, 44.4 per cent of respondents (28) reported that they had not reviewed their energy costs to see if they could save money, confirming the view that microbusiness engagement is currently limited.

The same survey also provides evidence that energy behaviour and engagement can be influenced by delivering energy advice to microbusinesses. Following advice, 50% of clients surveyed (29) reported identifying ways of using less energy and 22.4% (13) reported going on to a cheaper tariff.

Given the picture of low awareness painted above, we agree that awareness materials/initiatives would be of significant benefit to microbusinesses. Much of the information consumers need is already available, for example, as part of Ofgem's guide to energy contracts for small business.⁶ A bigger challenge is delivering information to microbusinesses in a manner that achieves engagement and prompts action. The ideal approach, we suggest, is one that:

- ✓ combines information on energy with information on other issues or areas of importance for microbusinesses, strengthening its overall appeal and utility to the target audience; and
- ✓ where possible, makes use of natural engagement with trusted bodies and/or key moments in which businesses are likely to be particularly engaged or responsive.

The Budgeting and Energy Advice service we deliver at Business Debtline provides one potential model for this kind of holistic intervention, targeted at businesses that are already experiencing financial stress. Another model – with a more preventative focus – would be to develop a 'starter pack' specifically targeted at business start-ups, combining information on business utilities with information on tax, commercial leases, business rates, banking and local support (such as Local Enterprise Partnerships). This could be delivered via the following agencies, amongst others, when the specified triggers apply:

- By HMRC on registration for tax;
- By a local authority on registration for business rates;
- By The Land Registry on registration of a lease (over seven years); or
- By an energy supplier on a change of tenancy.

Question 4: Our evaluation of the CMA's price transparency remedy (published alongside this document) has identified a number of issues at this stage of the customer journey. What do you see as the most impactful issues hindering microbusinesses attempting to effectively browse the market in search of an improved deal/service offering? Please provide quantitative and/or qualitative evidence demonstrating why you believe these issues to be most impactful.

Our insight into this part of the consumer experience is limited. We give advice on switching and shopping around where relevant, but many of our clients are unable to switch due to debt or unable to access the best available deals due to a poor credit rating. As shown in our previous research, however, we would emphasise that many small business owners are extremely time-poor, due to the demands of running their business, and may have limited business acumen or financial management skills. Given these natural barriers to engagement, any additional barriers need to be kept to a minimum for there to be a realistic chance of consumer engagement.

⁶ Ofgem, Understand energy contracts for business, <https://www.ofgem.gov.uk/consumers/business-gas-and-electricity-guide/understand-energy-contracts-businesses>

Question 5: What do you see as the key issues microbusinesses face when they come to enter into a new contract for their energy supply? Please provide quantitative and/or qualitative evidence demonstrating the extent and impact of the consumer harm caused by these issues in the form of both financial and non-financial detriment.

We have relatively limited insight into this part of the consumer experience. We do see evidence that microbusiness consumers have limited understanding of contracts and consumer rights or complaints. Many of the clients we speak to base their expectations on experiences as a domestic energy consumer, failing to recognise the significant differences between the two markets. Entering into a binding verbal contract, which may last for several years, as part of a phone conversation, is very different to the typical experience of energy consumers in the domestic market. Unsophisticated small business consumers can find themselves wrong-footed by differences such as this and may make significant decisions with limited understanding of the potential consequences. Clients also report in some instances that they have never received written confirmation of their contract terms from the supplier and so have no reference point.

A short cooling-off period would be one way to safeguard microbusinesses from potential harm in this scenario. We recognise that suppliers need a high degree of certainty over contract terms so that they can make advance pricing and purchasing decisions effectively. Since there is also a need for stronger consumer protections in this area, we urge Ofgem to explore how these two considerations can be effectively balanced.

Question 6: Do you have evidence demonstrating the extent and impact of malpractice by brokers dealing with microbusinesses? We are seeking both qualitative and quantitative evidence demonstrating consumer harm in the form of both financial and non-financial detriment.

As Ofgem is aware, our previous qualitative research with Business Debtline did indicate significant problems with brokers. On an on-going basis, however, we have relatively limited insight into the activities of brokers, as most of our interactions relate specifically to debt problems and negotiation directly between consumers and suppliers.

Question 7: Can you provide evidence demonstrating the extent and impact of any consumer detriment caused by providers approaches to dialogue with consumers about debt management issues? We are seeking both qualitative and quantitative evidence demonstrating consumer harm in the form of both financial and non-financial detriment.

Problems with business energy debt and suppliers remain reasonably common among Business Debtline clients. The proportion of Business Debtline clients with business energy arrears has fallen in recent years from 9% in 2016 to 4.5% in Quarter 1 2019. Overall, client numbers have increased significantly over the same period, as have the proportion of clients trading from home, which may help to explain this relative reduction.

Based on feedback from advisers and a selection of records, we have identified the following key themes and issues. We have included short examples from recent cases to illustrate some of the issues.

Bill shock, metering and billing issues

A large proportion of the energy debts we advise on are caused partly or wholly by metering or billing issues. We welcome the action that Ofgem has taken to ban suppliers from back-billing customers beyond 12 months, following on from Energy UK's voluntary commitment. This is an important protection, but many microbusinesses still fall foul of unexpectedly large bills within the 12 month billing period. A number of factors contribute to this.

- ✓ Energy usage among microbusinesses is variable and difficult to predict, so there is more scope for significant differences between estimated and accurate bills.
- ✓ Suppliers are often inflexible in their approach to arrears and reluctant to accept affordable instalments.
- ✓ New businesses are particularly at risk of receiving large catch-up bills, as they do not have their own usage history to rely on as a guide. These businesses are often under considerable pressure, as they work to establish themselves and navigate a range of new challenges. They are less likely than established businesses to have financial reserves or ready access to credit. An unexpected bill can put such a business in a position where they have few options, particularly if the supplier is unwilling to accept instalments.

A client called for advice on how to deal with her energy debt. She did not realise that her premises had three meters and has only been paying for two of them. As a result [supplier] are now demanding payment. Client does not remember signing up with [the supplier] as she was not even aware of the meter - likely to be a deemed contract.

Business Debtline caller, February 2019

Alongside bill shock, we see specific problems around metering, such as situations where a meter is not read for a long period of time or where premises are found to have additional meters or

complex/unexpected metering arrangements. Beyond the immediate problem of dealing with an unexpectedly large bill, situations like this can lead to a breakdown of confidence in the supplier that affects and complicates future communications.

A client contacted us in the first week of January, having been signposted to Business Debtline by his energy supplier. The supplier refused to accept a payment plan unless the client paid a quarter of the debt upfront. This was impossible due to seasonal cashflow, with the Christmas holidays being a particularly quiet period for the client's business.

Business Debtline caller January 2019

Inflexibility in dealing with arrears

Another key problem our clients encounter is that suppliers often take an inflexible approach to dealing with arrears. It is common for suppliers to insist on up to 50% of the outstanding debt as an upfront payment before agreeing to an instalment plan. This represents a very significant hurdle for a business with cashflow problems, restricted access to credit or other debts. Where suppliers insist on upfront payments, they appear not to take account of individual circumstances – whether that is an issue of vulnerability or of affordability.

Suppliers take a similar approach to repayment plans, insisting that customers clear their arrears over a short fixed period, e.g. 6 or 12 months, and refusing to make adjustments to take account of the amount a business can realistically afford to pay. We recognise of course that there are limits to what providers can accept and that the starting point for negotiation will be always be to aim for repayment within a short timeframe. If applied inflexibly, however, such an approach can result in negative outcomes for customer and a supplier alike. Disconnection typically means a microbusiness will have to cease trading. Suppliers are unlikely to receive payment in full once a business has ceased trading and the further effects will include additional debt for the business itself (particularly in relation to the outstanding lease) and a loss of revenue for the landlord, local authority and other creditors. If a business is struggling but viable, these outcomes can potentially be avoided by suppliers (and other creditors) taking a flexible, tailored approach to debt recovery.

A client contacted us having incurred energy arrears of approximately £40,000. The client told us this was a genuine error, as he mistakenly believed an employee had dealing with the business's utility bills. He made two monthly payments of £10,000 and asked his supplier to accept two further monthly instalments of £10,000, on top of on-going usage. The supplier refused to agree a plan and continued to threaten disconnection.

Business Debtline web chat client, June 2019

Advice and information

As we have highlighted previously, there is welcome evidence of energy suppliers signposting customers to Business Debtline for debt advice. We have good working relationships with a number of suppliers and work to support them in identifying customers who need help and signposting those customers to us. While this is a positive picture overall, we do find some instances where signposting hasn't happened at the right time or in the right way. For example, sometimes customers may not be made aware of our service until late in the collections and recoveries process, which limits the options available to them. In some cases, callers are advised to call us only when they are at the point of disconnection. They often then have an expectation that we will be able to directly intervene with their supplier to prevent this from happening. In some cases, it is evident suppliers have limited knowledge of how a small business would go about getting advice and working out a payment offer. A particular scenario we come across is suppliers insisting a customer complete a business budget sheet despite being a director of a limited company.

Question 8: Are you aware of microbusinesses facing significant and impactful issues when they come to exit a contract with their provider?

We are not aware of significant problems with exiting a contract. Since this is primarily a consumer rights issue rather than a debt issue, we would typically signpost clients to Citizens Advice Consumer Service as a more appropriate source of advice on this topic.

One area related to contract exit, however, is business failure. While the majority of businesses we speak to are able to carry on trading, a significant minority are not. It can be difficult for suppliers to trace business owners when a business has failed. Given this, we would welcome more clarity about how suppliers treat credit balances from closed accounts when they are unable to trace the customer and return the money. We are aware of Energy UK's voluntary minimum standard for microbusiness customers, which sets out the steps suppliers should take to help ensure credit balances are returned to customers.⁷ However, this does not include the same commitment to use funds for charitable purposes that exists in the domestic space if they cannot be returned to customers.⁸ We would suggest that a similar principle should apply to microbusiness credit balances and that suppliers should commit to using credit balances for appropriate charitable purposes, such as assisting microbusinesses with energy saving, debt advice, and debt assistance, which some suppliers are already doing on a voluntary basis.

⁷ Energy UK, Closed accounts with credit balances: Voluntary minimum standards for Micro Business customers, March 2015
<https://www.energy-uk.org.uk/publication.html?task=file.download&id=5190>

⁸ <https://www.ofgem.gov.uk/publications-and-updates/energy-industry-makes-progress-returning-money-after-domestic-customers-change-suppliers>

Question 9: Please provide evidence of the extent and impact of consumer detriment caused by the issues you have commented on in response to the above question. We are seeking both qualitative and quantitative evidence demonstrating consumer harm in the form of both financial and non-financial detriment.

We do not have any further comments to add in response to this question.

For more information on our response, please contact:

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