

Citizens Advice Scotland – Response to Ofcom’s call for inputs: Review of measures to protect people in debt or at risk of disconnection

Scotland’s Citizens Advice Network empowers people in every corner of Scotland through our local bureaux and national services by providing free, confidential, and independent advice. We use people’s real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better.

Introduction

The day-to-day activities of citizens are becoming increasingly dependent on their ability to use telecommunications services, such as mobile phones, broadband or landlines. The COVID-19 pandemic has highlighted the essential nature of online connectivity and access to internet data, with many people relying on internet access for working from home, staying informed or interacting with welfare services.

Executive Summary

CAS generally supports the measures proposed by Ofcom. In summary:

- The voluntary measures to support consumers introduced by providers during the outset of the COVID-19 pandemic were welcomed by CAS, as an effective response that has assisted in reducing consumer detriment over the past year.
- With consumers facing potential economic uncertainty as furlough and support schemes taper and Universal Credit uplifts look likely to be reversed, we believe it is timely to reconsider whether the protections for people in debt or struggling to pay remain appropriate, or whether there is a case for strengthening them.
- CAS supports measures which allow consumers in debt or at risk of disconnection to be treated fairly and have every opportunity to resolve these issues before disconnection takes place or service restrictions are imposed.
- CAS welcomes proposals to improve how providers identify and communicate with vulnerable consumers.
- CAS agrees that there should be more consistency in the ways providers communicate regarding debt and the ways they seek to obtain payment from customers in debt.
- CAS would wish to see the Consumer Principles embedded within the development of future measures, guidance, and regulations.
- CAS remains concerned regarding affordability issues and would welcome an early engagement approach by providers which aims to prevent a build up of debt
- We believe that further work is required to encourage providers to not only provide but to actively encourage take up of social tariffs for consumers who may be at risk of falling into debt.

A principled approach to Consumer Protection

Citizens Advice Scotland (CAS) are pleased to see that Ofcom continues to prioritise the fair treatment of consumers, including consumers in vulnerable circumstances. In considering how best to protect vulnerable consumers, CAS would recommend that Ofcom adopts the following consumer principles when considering future measures, and when considering the responses to the Call for Input. These principles are essential to achieving improved consumer outcomes. CAS recommends embedding these principles within the development of future measures, guidance, and regulations.



Affordability Issues

We recognise that consumers have faced significant difficulties in the last year, including financial hardship and debt. CAS continues to have grave concerns regarding affordability of services. Recent polling by YouGov for CAS¹ found that over 1.4 million people in Scotland have run out money before pay day in the last year. We found that more than 1 in 4 (26 per cent) of those who ran out of money before pay day last year could not afford internet access as a result, with 28 per cent being unable to afford mobile phone use for similar reasons. This is consistent with Ofcom's consumer research which found around one in five households have at least one affordability issue.

¹ Figures from YouGov Plc. Total sample size was 1032 adults. Fieldwork was undertaken between 20th - 25th May 2021. The survey was carried out online. The figures have been weighted and are representative of all Scotland adults (aged 18+).

The Need for Pro-active measures by Providers

These same consumers are those that may stand to gain the most by switching provider but who may be least likely to do so. This may be because they cannot afford to pay off any outstanding balances, or their financial circumstances have suddenly changed, and they may be stuck with an uncompetitive deal. We would encourage flexible measures by providers that would allow consumers to manage their way out of these situations more quickly and confidently.

The voluntary measures to support consumers introduced by providers during the outset of the COVID-19 pandemic were welcomed by CAS, we viewed this as an effective response that has assisted in reducing consumer detriment over the past year. With these voluntary measures coming to an end, and with consumers facing potential economic uncertainty as furlough and support schemes taper and Universal Credit uplifts look likely to be reversed, we welcome Ofcom's consultation. We believe it is timely to reconsider whether the protections for people in debt or struggling to pay remain appropriate, or whether there is a case for strengthening them.

CAS welcomes Ofcom's recent report arising from its investigation into measures for debt and disconnection in the fixed and mobile sectors. The data gathered by this investigation is generally positive; with the proportion of consumers in arrears remaining relatively stable. However, CAS is concerned that Ofcom's data shows that levels of debt experienced by those who are in arrears is increasing. Further, the proportion of customers facing disconnection is now returning to pre-pandemic levels. While this may be a result of the withdrawal of the voluntary measures offered by providers at the outset of the COVID-19 pandemic, and the ending of other financial support schemes, what matters now is that consumers in debt or at risk of disconnection should be treated fairly and have every opportunity to resolve these issues before disconnection takes place or service restrictions are imposed.

Preventing Debt

We are aware that improving arrangements for dealing with problem debt will always be a case of taking measures once a problem has already built up. We believe that further work is required to encourage providers to not only provide but to actively encourage take up of social tariffs for consumers who may be at risk of falling into debt. We note that Ofcom's research has found that of the current social tariffs, some are only available for a limited period, some application processes are not as straightforward as they could be, and take-up across all providers is low. CAS consider that if this continues to be the case then further regulatory measures may be needed to encourage movement by providers. In this regard, we would welcome further clarity from Ofcom on the measures that may be taken if providers fail to comply with the best practice measures set out in any updated version of the [Treating Vulnerable Consumers Fairly](#) guide.

Question 1: Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

CAS agree with Ofcom that the guide should be amended and that providers should recognise that customers who are in arrears are likely to be vulnerable. We welcome any measures to ensure that customers in debt or customers struggling to meet their regular

payments are treated fairly. These include the proposals to ensure that providers a) improve how they identify vulnerable consumers, b) emphasise the support available when communicating with customers regarding arrears and c) use a range of channels to communicate.

When consumers face financial difficulty, this leads to them experiencing debt in multiple sectors (mobile, rent, electricity etc). Consumers facing such debt problems can often find the experience overwhelming, resulting in difficulties when looking for support. If providers are able to emphasise the support available when directly contacting consumers who are in debt or struggling to pay, this could achieve more positive outcomes for consumers. Engaging early with consumers who are in debt or struggling to pay is crucial for preventing debt becoming problematic.

Debt is the second largest issue dealt with by the Citizens Advice network in Scotland, with 94,375 pieces of advice issued in 2019/20. We also saw an increased demand for debt advice in 2019/2020 during the COVID-19 pandemic². In order to prevent problem debt from occurring, consumers should be signposted to support at the earliest possible opportunity, as this could prevent debt accumulating and becoming overwhelming for consumers. CAS would welcome the guide being amended to place an emphasis on the support available to consumers. However, CAS would note the importance of providers acting fast and engaging quickly when providing this communication to consumers.

With regards to offering consumers channel choice, CAS views this as essential in treating consumers fairly. CAS believes in channel choice rather than channel shift. This brings benefits to consumers if they have access to a communications channel that they are comfortable with. Providers should make the required adjustments to ensure that consumers are comfortable with the communications channels they are offered and can use the one most appropriate to their needs. This is particularly crucial when highlighting the additional or support services that a provider may offer vulnerable consumers.³

We would recommend that vulnerable consumers are contacted by providers using their preferred channel of communication. CAS notes that Ofcom and other regulators have issued statements of best practice on communication with vulnerable consumers (see, for example the FCA's Fair Treatment of Vulnerable Consumers⁴ guidance released earlier this year). CAS would encourage Ofcom to consider how these best practice recommendations can result in actual practical changes to provider processes and better outcomes for vulnerable consumers. CAS would recommend that Ofcom and providers consider the FCA's approach which aims to ensure that providers' treatment of vulnerable consumers is consistent throughout the consumer's journey, with products and services being designed with support for those with vulnerability built in from the very beginning.

CAS would actively encourage Ofcom and providers to consider reaching out to those with lived experiences of good and bad practice to find out what developments are needed, especially for those vulnerable consumers who are in debt, struggling to pay or have various vulnerabilities. Finally, CAS would highlight that setting best practice is fundamental but so

² <https://www.cas.org.uk/publications/response-fca-consultation-proposed-guidance-firms-fair-treatment-vulnerable-consumers>

³ https://www.cas.org.uk/system/files/publications/citizens_advice_scotland_response_-_ofocm_consultaion_on_treating_vulner.pdf

⁴ <https://www.fca.org.uk/firms/treating-vulnerable-consumers-fairly>

are strong measures for monitoring and evaluating compliance. Ofcom should ensure clear expectations are set, with providers in no doubt as to the consequences if they fail to comply with these recommendations and practical measures.

Question 2: Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

We support Ofcom's view that that customers in debt may be more likely to benefit from free debt advice services if providers:

- signpost and promote debt advice organisations in all payment/collection related communications; and
- have a dedicated direct contact channel to allow free debt advice organisations representing customers easy access to providers.

CAS believes that consumers facing debt and financial difficulties benefit most when support is provided at the earliest opportunity. We welcome Ofcom's view that it is good practice for providers to signpost consumers to debt advice organisations and to work with consumer advocacy bodies such as CAS that specialise in providing help and support to people managing debt. We agree with Ofcom that the guide should recommend that providers routinely include clear and prominent information about sources of free debt advice in their payment and collection related communications to customers in arrears. CAS would highlight that Ofgem, as the UK's energy regulator, under Standard License Conditions 31G.1 and 31G.2 for Gas and Electricity suppliers requires suppliers to provide information to consumers relating to how they can seek advice and information about debt management⁵⁶.

In light of current practice in the energy sector CAS would ask Ofcom to consider whether the General Conditions should be amended to require providers to engage with consumers in a similar manner. If Ofcom believes that an amendment to the General Conditions is not necessary in this instance, we would ask Ofcom to ensure that the guide to treating vulnerable customers fairly is amended to include measures similar to those practiced in the energy sector. CAS would recommend that when signposting to consumers, providers should be aware of the national availability of debt advice organisations to ensure that consumers do not receive information relating to an organisation they cannot access. For example, Scottish consumers should not receive information regarding debt advice organisations that are only available to consumers in England and Wales. This information is essential in informing consumers of routes to support.

CAS would be content to work with any providers who wish to collaborate in developing best practice in this area. CAS has had positive engagement with providers when engaging at more strategic levels. However, it may be useful to strengthen operational engagements for partnership as CAS are aware that advisors in the Citizens Advice network in Scotland have sometimes faced difficulty when engaging with providers as the client's trusted intermediaries. This has been more difficult during the COVID-19 pandemic where it was not possible for face-to-face advice to be provided to clients.

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<https://epr.ofgem.gov.uk/Content/Documents/Gas%20supply%20standard%20licence%20conditions%20consolidated%20-%20Current%20Version.pdf>

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<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

For example, CAS are aware that during the early months of the pandemic a north of Scotland CAB reported that a client's son had an unreliable broadband connection with their provider and that an engineer has not been to examine the connection despite being told to expect someone. The client's son was a vulnerable consumer and relied on the internet to complete basic tasks, such as banking. The CAB advisor was told by the provider that they could only discuss the issue if the vulnerable consumer was present, which was not possible due to COVID-19 restrictions.

CAS promptly raised this issue with the provider and highlighted it during engagement with the Ofcom Communications Consumer Panel. We were pleased that the provider responded positively and ensured that our advisors would not face this issue going forward. Similarly, we were pleased to have assurances via representatives of the Communications Consumer Panel that providers would be reminded that our advisors should be able to represent clients remotely during the COVID-19 pandemic.

In general, advisors report positive interactions when engaging with providers on behalf of clients. We would, however, note that there have been several cases in which advisors have reported difficulty in engaging with providers in a timely or accessible matter. Advisors have also reported that vulnerable clients have faced long waiting times when seeking to speak to their provider.

CAS would support providers offering consumer organisations a direct channel to contact them on the consumer's behalf. If providers were to offer such a service, it could ensure an accessible and efficient channel to allow advisers and providers to work together to resolve issues that consumers are facing. It would also minimise the time advisers spend on hold to providers, allowing advisers more time to assist clients with any other issues they may face.

Question 3: Do you agree that there should be more consistency in the way in which providers seek to effect payment from customers in debt? If so, how do you believe this could be achieved most effectively? Please provide evidence supporting your views, including any research you have conducted or have access to.

CAS agrees with Ofcom that there should be more consistency in the ways in which providers seek to obtain payment from customers in debt. CAS supports Ofcom's view that providers should:

- avoid disconnecting a customer before a minimum of three months after missing a bill payment;
- use a phased approach to the introduction of any service restrictions to effect payment, rather than introducing a complete suspension of services with no prior partial restriction;
- avoid introducing service restrictions as a means of effecting payment for vulnerable people who are particularly reliant on their communications services due to their circumstances, unless all other options have been exhausted and there is no alternative;
- protect, where possible, access to free helplines dedicated to, for example protecting children and domestic abuse victims, even during service restrictions; and
- seek to understand a customer's individual circumstances before putting them in a position where they are pursued by a debt collection agency to repay a debt.

However, CAS would highlight concerns regarding some provider's practices on the outsourcing or sale of debt to external debt collection agencies. While we understand that

some providers may use external debt collection agencies to reduce their exposure and costs associated with debt collection, we would note that only 5 of the 14 providers within Ofcom's sample use debt collection agencies that are regulated by the Financial Conduct Authority (FCA). CAS believes that the use of debt collection agencies that are not regulated by the FCA may result in additional consumer harms, as these agencies are not obliged to follow the FCA's guidance and regulations designed to protect vulnerable consumers. We therefore recommend that Ofcom considers implementing a General Condition that if a provider uses an external debt collection agency, this agency must be regulated by the FCA.

CAS notes the importance of affordable connections in enabling people's everyday activities. We too consider that disconnection or service restrictions should be an action of last resort. These actions can potentially cause significant harm to consumers who may be using the internet to receive support from debt advice organisations or manage their finances through digital banking. Likewise, disconnections could have a significantly detrimental impact on consumers who are recipients of Universal Credit, as they are reliant upon internet access to carry out Universal Credit journal updates and job applications. With the Universal Credit Uplift soon potentially being withdrawn, and other COVID-19 support measures ending, it is likely that some recipients will face a serious shock to their household incomes⁷.

Providers should therefore be aware that consumers who are reliant on such support at this moment may face significant financial uncertainty in the coming months. We would recommend that the guide is amended to remind providers that consumers in receipt of Universal Credit are wholly reliant on consistent internet connections in order to complete journal updates, which are essential if applicants are to receive payment. Disconnecting or restricting the service of such consumers could result in those consumers facing extreme financial detriment, in turn making any financial recovery for the provider even less likely.

With regards to section 4.52 of the call for inputs, which relates to the publication of measures providers take to obtain payment, CAS would like to see a revision of General Condition C3.12. We suggest that this revision should oblige providers to take a more consistent approach to publishing such information, both in terms of the level of detail they provide about the measures they take as well as ways in which this information should be made available, which could include publication on apps providers develop for interacting with their customers, as well as on their websites. CAS believes that consumers would benefit significantly from such additional information, allowing them to better understand the potential impact that continuing arrears may have upon the service they receive from their provider.

We recognise that providers may be reluctant to adapt a more consistent approach across the sector, as some providers may view their own approach as being more commercially beneficial than others. However, CAS believes that a more consistent approach by all providers would be extremely beneficial for both consumers and providers. A more consistent approach to the publishing of measures and detail of information would allow greater transparency and allow easier monitoring of compliance with best practice in these areas.

Question 4: Do you agree that we should amend the guide regarding the provision of information about measures to support customers? If not, are there any alternative options

⁷ https://www.cas.org.uk/system/files/publications/cas_-_mp_briefing_on_fall_in_uc_real_terms_value_since_2013_10_february_2021_0.pdf

you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

CAS notes that provider practices regarding the provision of information about measures to support consumers currently varies considerably. CAS agrees with Ofcom that providers should seek to adopt the recommendations of the guide more consistently and we look forward to observing Ofcom's monitoring of this.

We agree with Ofcom that it should be easier for customers in debt to find out about the specific support their provider offers. We agree that this could be achieved by recommending that providers should take positive steps to give information to customers about the support available to them, such as the potential to take payment deferrals or payment plans. This could be provided in outgoing debt communications, on their websites and when customers in debt contact their customer service teams. Additionally, it would be beneficial to consumers if providers were to relay this information to any third-party debt advisors that consumers are engaging with.

Preventing debt in the first instance

It should be noted that CAS believes that offering social tariffs to consumers who are vulnerable and/or on low incomes, or facing debt, would be the most effective way to ensure that they are supported and have access to affordable internet in times of financial hardship. Given the transient nature of vulnerability, we believe that consumers should have access to a social tariff if their financial situation is suddenly precarious. By offering a social tariff to consumers who, for example, have been made unexpectedly unemployed, this could allow them to remain connected while maintaining a Universal Credit Application and continuing to seek employment. Furthermore, if a provider were to offer a social tariff to consumers who are in debt this could significantly reduce their expenditure on their current contract as they begin to manage and stabilise their finances. We would note that several providers already offer social tariffs voluntarily, as well as those offered by the Universal Service Providers.

In recent polling conducted by YouGov for CAS⁸, 15% of respondents told us that the current costs of their internet or mobile phone contracts were unaffordable in relation to their personal income. We therefore believe that the availability of social tariffs could prevent consumers falling into debt in the first instance and would significantly reduce the resources required by providers to pursue debt collection.

We would further urge Ofcom to consider the possibility of amending the General Conditions, as relevant to the measures outlined in the guidance to treat vulnerable consumers fairly, if there are no significant improvement in debt related consumer outcomes.

⁸ Total sample size was 1032 adults. Fieldwork was undertaken between 20th - 25th May 2021. The survey was carried out online. The figures have been weighted and are representative of all Scotland adults (aged 18+).