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Consultation Response:

Ofcom Treating vulnerable customers fairly guide

Response by the Money Advice Trust

Date: May 2022

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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 2021, our National Debtline and Business Debtline advisers provided help to over 170,400 people by phone, webchat and our digital advice tool with 1.63 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 2021 we delivered this free training to more than 1,000 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org.

Public disclosure

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

Introductory comment

We welcome the Ofcom proposals to amend its Treating vulnerable customers fairly guide. In general, the proposals work well and should enhance the good practice guidance.

In our previous response, we made it clear that we believe that it would be preferable to strengthen the general conditions on debt and disconnection rather than amend the good practice guidance. We are still of the view that Ofcom should amend the general conditions regarding debt and disconnection and vulnerability and to enforce these where providers do not comply.

It does not appear that the guidance is enforceable against providers or that there are any sanctions for non-compliance that can be used by Ofcom. Ofcom needs to be able to ensure consistency of approach and develop the practices of providers to match the best examples within the consumer credit sector or utility regulators. This requires greater enforceable powers to deliver this and improve outcomes for customers. If Ofcom remains of the view this is not needed at this time, then we would like to see more detail on how Ofcom plans to monitor ongoing practice and customer outcomes to determine if strengthening of the General Conditions is required in future.

We are pleased to see that the guide has been amended to include a reference to it being good practice for providers to offer social tariffs. We would like to see all providers offering and promoting social tariffs.

Responses to individual questions

Question 1: Do you agree with the proposed revisions to our guide? Please provide your views with supporting evidence.

We would generally support the proposed revisions to the guide on supporting customers in debt. However, we are concerned that these revisions will not be sufficient in themselves.

Debt collection practices

We are disappointed that Ofcom has not taken further measures to ensure a consistency of approach amongst providers in how they treat consumers in debt, how they deal with affordable repayment offers and their approach to disconnection. The original call for evidence research showed that there is a wide range of provider practices occurring, when providers try to obtain payments from their customers. There should be serious consideration given to a requirement on providers to consistently waive late payment and administration fees where people are struggling to pay, are in debt and have vulnerable circumstances.

We would expect Ofcom to put in place robust requirements on providers to ensure fairness and consistency in debt collection practices.

We believe that it is crucial for Ofcom to monitor supplier compliance with the amended guidance. We therefore very much support the intention to monitor how consistently providers follow the good practice recommendations in the guide. We would welcome more detail on how Ofcom will do so – for example, will there be ongoing consumer research to understand how people are being treated and the outcomes they are receiving? Ideally, results of Ofcom’s monitoring should be made public – for example through an annual monitoring report – to allow for transparency.

However, Ofcom should be prepared to go further, if it continues to find that providers are not adhering to the good practice guidance. If the guidance does not have the desired effect on good consumer outcomes, Ofcom should amend and strengthen the general conditions and be prepared to enforce compliance.

Use of the Standard Financial Statement and ability to pay

We recognise that the guidance does reference an encouragement for providers to use the Money and Pensions Service Standard Financial Statement when working out ability to pay with customers, but this is in a footnote. However, it does not appear that providers use the Standard Financial Statement in practice to assess ability to pay, and to determine what an affordable payment is for an individual customer.

This leads to an inconsistency of outcome for consumers, some of whom will be asked to make payments based on their ability to pay, and in other cases will be given an arbitrary time period, such as six months, to pay off the arrears even where they cannot afford to do so.

Ofcom needs to take action to address this poor practice and strengthen the rules. We would suggest that the gold standard here would be for providers to accept longer-term payment plans based on ability to pay, and that people are allowed to keep the essential elements of their service plan going, whilst on their repayment plan.

Debt collection and FCA authorisation

We are disappointed that Ofcom has not agreed to require providers to use FCA regulated debt collection agencies. This would be a simple step that would ensure the quality of debt collection agencies used by the telecoms sector. It would give the sector the confidence to appoint firms based on the knowledge that they are being regulated by the FCA to a high standard. This does not relate to whether telecoms providers are FCA authorised to offer consumer credit. It is all about the standard of debt collection agency that providers should work with when collecting arrears from their customers. There is nothing requiring debt collection agencies that are unauthorised by the FCA to follow any principles, or work to a set of rules and guidance. We therefore do not think that this approach constitutes adequate protection for consumers in the telecoms sector.

We are still concerned that there could be variation in good practice amongst providers depending upon whether they are FCA authorised. We would encourage Ofcom to align its general conditions and guidance to match the FCA rules and requirements on debt collection and vulnerability. This would mean that the practices of telecoms providers who are not regulated by the FCA would match those that are.

Signposting to free debt advice

We still believe that Ofcom should mandate a standardised and prescribed list of free debt advice organisations. It would be helpful if Ofcom was to adopt a similar approach to the model of the FCA arrears information sheet¹ as suggested in the responses to the call for evidence. This information sheet can be easily updated as necessary by the regulator.

We do not think this is imposing much of a burden on providers, especially as the strategy in the paper is to suggest each provider has a conversation with debt advice providers separately about signposting. This seems a rather cumbersome approach to reaching the same solution and requires due diligence by each provider. It also ensures that providers signpost to reputable sources of independent free debt advice and are not persuaded to use fee-charging commercial firms, given the risk of poor practice/customer outcomes in this sector.

¹ <https://www.fca.org.uk/firms/information-sheets-consumer-credit>

Social tariffs

We are very pleased to see that the guide has been amended to include a reference to it being good practice for providers to offer social tariffs. We would ideally like to see Ofcom go further and work with government to mandate providers to offer social tariffs and to advertise these tariffs to their customers.

We agree that it is vital that more is done to raise awareness of social tariffs to ensure that people who are eligible can benefit from reduced costs at a time of immense pressure on household finances. As the paper says:

“Only 55,000 households have taken up a social tariff so far, which represents an estimate of just 1.2% of UK households receiving Universal Credit.”

However, we believe Ofcom should ensure that providers alert all customers to their social tariffs, not just people who are in debt or struggling to pay as set out in the guidance. Being on a social tariff could prevent people falling into debt in the first place, which would be a better outcome for both customers and providers.

We also believe that Ofcom should carry out research into how consumers can move to a social tariff in the smoothest way possible with an aim of issuing new rules for providers. People should not have to deal with barriers to switching such as exit fees from existing contracts, having to ring up their existing provider to haggle, and the lack of an available social tariff without switching providers.

Small businesses

We note that the paper considers proposals to extend protections in the guidance to micro-businesses and small businesses. We appreciate the statement that small business customers on residential contracts will benefit in the same way as residential customers under the guidance.

However, we do not think this goes far enough. As we said in our response to the call for evidence, many self-employed people and small business owners rely upon their business phone line, home phones or mobiles to run their businesses. This means that the threat of disconnection could have particularly drastic consequences for them. If small traders cannot run their businesses, this can have a knock-on effect for their financial situation and means that providers will be less likely to recover the arrears as a consequence.

We still believe that Ofcom should ensure that self-employed people and small business owners with business contracts are given support and help in a similar way to domestic consumers, and that special care is taken to ensure any potential overlap in personal and business finances is taken into consideration to ensure small business owners receive effective support.

For more information on our response, please contact:

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