

MONEY
ADVICE TRUST

BUSINESS
DEBTLINE

NATIONAL
DEBTLINE

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ADVISER

Consultation Response:

Ofcom Review of measures to protect people in debt: call for inputs

Response by the Money Advice Trust

Date: September 2021

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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 2020, our National Debtline and Business Debtline advisers provided help to 161,560 people by phone and webchat, with 1.86 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 2020 we delivered this free training to over 920 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.

Executive summary

We welcome the opportunity to respond to the Call for Input, and Ofcom's commitment – set out within it – to make sure customer in debt are treated fairly.

The experience of our clients shows there is more work needed to ensure people in debt get the help they need from their telecoms provider:

- ✓ Almost half (46%) of National Debtline clients surveyed with telecoms debt, said they weren't offered assistance by their provider to help resolve their debt situation; and;
- ✓ 70% said that the actions of their telecoms provider had a negative impact on their wellbeing.¹

In order to ensure there is a consistent, fair approach to people in debt across the sector, we believe that Ofcom should strongly consider amending the general conditions. 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.

We are 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 could match those that are.

In addition we would make the following points.

- ✓ It is vital that providers offer a range of communications channels to ensure that people in vulnerable circumstances can use the method of communication they are most comfortable with.
- ✓ We agree with the recommendation to amend the guide to require providers to emphasise the support available for customers in debt or who are struggling to pay.
- ✓ We also support clarifying the recommendation in the guide that providers should use a range of channels to communicate with customers.
- ✓ We strongly support amending the guide to require providers to signpost and promote free debt advice organisations in all payment and collection-related communications. It is vital that this information is clear and is made prominent.

¹ 2020 National Debtline client survey, Base: 117 clients with telecoms debt

- ✓ We need to 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.
- ✓ We would strongly recommend that the guide includes a requirement for providers to include Business Debtline as a source of referral for free debt advice for small business owners.
- ✓ We would suggest that providers work in partnership with charities that provide free debt advice to their customers. By helping to support those charities through funding donations, providers will be ensuring the continued availability of free debt advice for their customers.
- ✓ We suggest that the Ofcom findings, presented in the Call for input, demonstrate an inconsistent approach by providers. There still does not appear to be a fair approach to how people in debt are treated across the sector, nor sufficient flexibility to tailor support and collection practices to people's circumstances. That this remains the case despite the guidance suggests stronger action – in the form of amendments to General Conditions – is needed.
- ✓ We would support amendment of the rules in the General Conditions to limit the use of disconnections and to limit the use of service restrictions as set out in the paper under point 4.49. We do not think this is sufficient to be left to guidance alone as is recommended in the paper.
- ✓ At the very least, there should be a requirement to have a process in place to assess a customer's circumstances, check for vulnerability and whether there is a debt problem, *before* a provider can impose service restrictions or ultimately disconnection.
- ✓ All telecoms providers should be required to use debt collection agencies regulated by the FCA irrespective of the regulatory status of the providers.
- ✓ 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.

Responses to individual questions

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.

Provider identification, engagement and communication with customers in debt or struggling to pay

We support the amendments to the guide that are suggested in the paper. We would support the guide being strengthened to require providers to offer a full range of contact methods. We would suggest that restricting the range of methods of contact available fails to support people in vulnerable circumstances, or people in debt.

We agree with the recommendation to amend the guide to require providers to emphasise the support available for customers in debt or who are struggling to pay.

We also support clarifying the recommendation in the guide that providers should use a range of channels to communicate with customers.

We are concerned to see the variation in the number of communication channels that providers allow customers to use to get in touch with them, with some offering a range and others having much more limited options. It is vital that providers offer a range of communications channels to ensure that people in vulnerable circumstances have the option of using a method of communication that they are comfortable to use.

It is helpful for people in a variety of vulnerable situations to have alternative contact methods in place. Research has consistently demonstrated that telephone channels can be inaccessible for some groups, particularly those with mental health conditions – for example, over half of people with mental health problems (54%) have serious difficulties using the phone to carry out essential admin (compared to 32% of people without mental health problems). With half (46%) of people in problem debt also having a mental health problem, it's vital that people can contact in different ways – such as via email or webchat – if the scheme is to achieve the stated aim of supporting people in, or at risk of, fuel poverty and energy debt.²

People on low incomes may also be 'time poor' – working long hours, multiple jobs and managing caring responsibilities. Having to wait on the phone to speak to someone may be time they don't have, so offering multiple channels through which they can contact is crucial. In addition, people may want a relative or friend to be able to contact the service on their behalf. This should be made easy to do under the guidance.

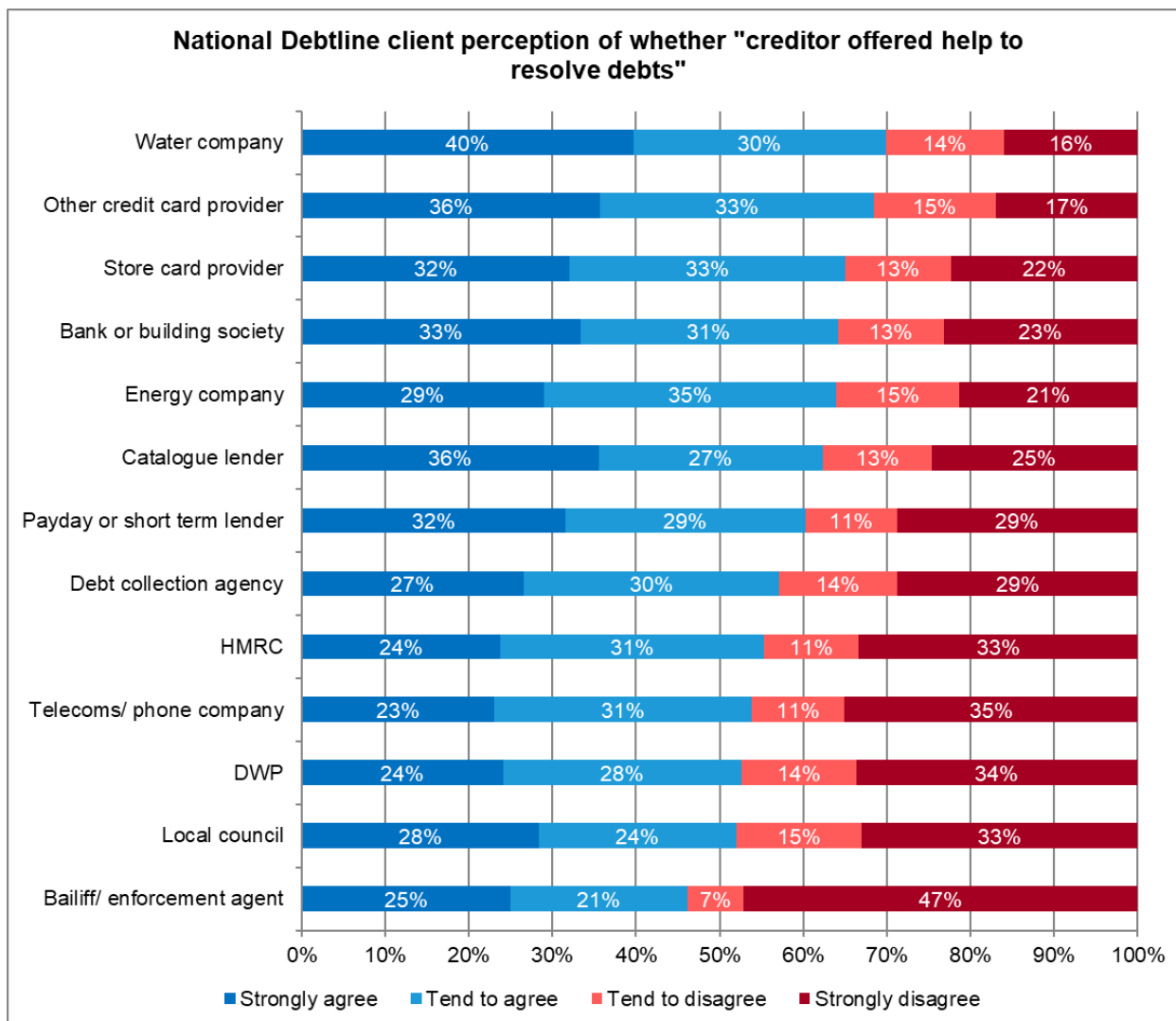
Question 2: Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

Strengthening links with organisations and charities that can provide free debt advice and support

Evidence from our clients suggests telecoms providers are not currently doing enough to help their customers in debt or struggling to pay. Of National Debtline clients surveyed in 2020, with telecoms debt, almost half (46%) said they weren't offered assistance by their provider to help resolve their debt situation.³ As the graph below demonstrates, telecoms providers rate particularly badly relative to other creditor sectors in this respect.

² Money and Mental Health Policy Institute (2018) *Access Essentials: Giving people with mental health problems equal access to vital services*

³ 2020 National Debtline client survey, Base: 117 clients with telecoms debt



Improving provision and awareness of support

We would suggest that the guidance needs a requirement for providers to proactively raise awareness of the support available – including through debt advice, at an early stage. We know that people in financial difficulty can be wary of contacting their provider both through fear of how they will be treated and because they are not always aware of the support that can be offered.

However, it is important that these messages are supportive in tone so that customers do not feel they are being bombarded with messages about paying, which could undermine the intention. Involving customers in the design of support, processes and communications can help ensure providers strike the right tone, and lead to better outcomes for providers in increased customer engagement. Earlier this year, we released [two guides on Inclusive Design in Essential Services](#), in partnership with Fair By Design – one for regulators and one for providers. The guides – which includes a practical toolkit – set out how providers and regulators can use inclusive design in their work to better understand the needs of their customers and to co-design support.

At its heart, inclusive design means that, instead of designing for a mythical ‘average user’, we design for all consumers, including people with additional or out-of-the-ordinary needs. Inclusive design has the potential to significantly improve outcomes for consumers, particularly those on low incomes and/or in vulnerable circumstances, by making sure that products and services are accessible, meet their needs and do not cause them harm.

We would ask Ofcom to consider both how they can use inclusive design in their work, and to encourage providers to take an inclusive design approach – as other regulators, such as Ofgem and the FCA, are doing.

Referrals to debt advice

We strongly support amending the guide to require providers to signpost and promote free debt advice organisations in all payment and collection-related communications. It is vital that this information is clear and is made prominent. Ofcom should consider making guidance more prescriptive as to the meaning of “prominence” so that it is not left to the interpretation of individual firms or providers.

The guide says at point 4.42:

“We [...] encourage providers to promote third-party [debt advice] organisations and services in their conversations with customers or send links to useful information.”

We would suggest that this is amended to require providers to promote sources of free debt advice from a prescribed list and using set wording to describe services that apply across the board. We would strongly suggest that guide needs to be more rigorous in its definition of debt advice to avoid providers inadvertently making links with fee-charging debt management companies or lead introducer firms.

Supporting self-employed people and small business customers

Small business owners face huge uncertainty due to the on-going impact of the Covid-19 pandemic and associated restrictions, and many others have been forced to run businesses from home with clear implications for telecoms bills. In many cases, this impact has been felt in the personal finances of small business owners and self-employed people, and it is not uncommon for business and personal finances to overlap, making managing finances more difficult. In this context, a fair framework for debt management is more important than ever.

We need to ensure that small business owners and self-employed people 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.

We would strongly recommend that the guide includes a requirement for providers to include Business Debtline as a source of referral for free debt advice for small businesses. Business Debtline is the UK's only free debt advice provider for small business owners and self-employed people.⁴ 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.

Working in partnership

We welcome the commitment to require providers to have a dedicated direct contact channel to allow free debt advice organisations representing customers easy access to providers. This should go further than just offering assistance to those debt advice bodies that offer a casework service to their clients. It should be a quick route in for advisers to use for one-off enquiries on behalf of clients or to access the complaints route. It is crucial that this is staffed properly and that providers give adequate support so that advisers can get through easily.

We would welcome the opportunity to work in partnership with all telecoms providers to help them to better support their customers and to put in place sustainable funding arrangements to help achieve this.

We feel that it is important for both the telecoms sector to understand the benefits and constraints of the debt advice agency and vice versa.

By providers working in partnership with free debt advice organisations this will create stronger customer journeys, suitable referral pathways, regular feedback sessions and an additional support structure for customers in financial difficulties.

Greater partnership working, with funding to support this, will not only help support the debt advice agencies but will provide increased support for customers and subsequently the telecoms providers themselves.

As Ofcom will know, there is a considerable gap between the advice sector's resources and the number of households in financial difficulty. The impact of Covid-19 looks certain to increase demand for advice very considerably especially with more people working from home and the use of telecoms and broadband becoming a priority for many more people. The Trust is working closely with the Money and Pensions Service and other advice partners to increase provision, but a significant gap still remains.

⁴ In 2020, Business Debtline helped 26,530 small business owners and self-employed people over the phone and 12,370 via webchat. In addition, there were 475,800 visits to the Business Debtline website. https://www.moneyadvicetrust.org/media/documents/Our_outcomes_in_2020.pdf

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.

Measures taken by providers to effect payment

We would support amendment of the rules in the General Conditions to limit the use of disconnections and to limit the use of service restrictions as set out in the paper under point 4.49. We do not think this is sufficient to be left to guidance alone as is recommended in the paper.

At the very least, there should be a requirement to have a process in place to assess a customer's circumstances, check for vulnerability and whether there is a debt problem, *before* a provider can impose service restrictions or, ultimately, disconnection.

From the paper, there is a wide range of provider practices occurring to try to obtain payments from their customers. We would expect Ofcom to put in place robust requirements on providers to ensure fairness and consistency in debt collection practices.

Where providers offer packaged accounts, there needs to be a requirement for such accounts to be separated out when someone is in financial difficulty. This could ensure people keep the essential elements of their service, and to end less vital elements at that point. This could allow people to maintain their phone and broadband services. We note that mobile phone providers that offer handsets via regulated consumer credit or consumer hire agreements also have to be authorised by the Financial Conduct Authority and adhere to its rules and guidance and the Consumer Credit Act 1974 (CCA). This means that providers will have to follow the FCA treating customers fairly principles and CONC rules for debt collection and supporting people in debt.

We are concerned that there could be variation in good practice amongst providers depending upon whether they are FCA authorised.

As an example of good practice, an FCA regulated telecoms provider that we work in partnership with has put in place additional arrangements for customers, allowing their customers to 'take a break' from their talk plan with no fees or detriment to their service. By working with a third party, these customers can set up arrangements to repay over an extended period of time. They have also allowed customers not yet in debt to defer payments to allow themselves to get back on track. This has reduced the need for disconnections and allowed customers the breathing space needed without losing service.

To achieve consistency of practice across the sector we recommend Ofcom align its general conditions and guidance to match the FCA rules and requirements. This would mean that the practices of telecoms providers who are not regulated by the FCA would match those that are, providing consistency for customers.

This would also create a consistent approach to assessing affordable payments using the Standard Financial Statement. It would allow for a consistent approach to service restrictions and disconnections for people in debt and in vulnerable circumstances. In particular, providers should follow the FCA vulnerability guidance and Ofcom should align its own guidance with the FCA vulnerability guidance as far as possible for all providers. Providers need to develop their approach to dealing with vulnerability. It is important that providers make sure that the full range of potential vulnerabilities are considered and not just financial vulnerabilities. This requires proper conversations with customers and cannot be restricted to measures such as checking credit reference files for signs of financial stress.

Currently, the telecoms sector lags behind other sectors in terms of identification and support of vulnerable customers. A survey of debt advisers across the sector, conducted by the Money Advice Trust, in 2020 found that 39% of advisers rate telecoms providers as poor or very poor at identifying and supporting vulnerable customers.

All telecoms providers should be required to use debt collection agencies regulated by the FCA irrespective of the regulatory status of the providers.

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.

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

Measures designed by providers to support customers who are in debt or struggling to pay

We do not believe that telecoms providers are giving sufficient or consistent levels of support to their customers in debt when they are struggling to pay.

- ✓ A survey of debt advisers across the sector, conducted by the Money Advice Trust, in 2020⁵ found that: 39% of debt advisers surveyed think telecoms companies are poor or very poor at assessing affordability and their willingness to accept repayment plans;
- ✓ 39% of debt advisers surveyed think telecoms companies are poor or very poor at providing assistance to help people resolve their debt situation.

These figures are much higher than for FCA regulated sectors, which advisers rated as better across all these measures. For example, only one in five advisers (21%) rated banks as poor or very poor at providing assistance to help people resolve their debt situation. Other utility sectors also scored much better than telecoms – just 13% of advisers surveyed thought water companies were poor or very poor at this, and for energy providers it was 27%.

⁵ Money Advice Trust survey of debt advisers across the free advice sector, via our Wiseradviser training service. Fieldwork was conducted online between 10 August – 2 September 2020 and the survey received 413 responses.

These findings, combined with the findings from Ofcom demonstrate an inconsistent approach by providers. There still does not appear to be a fair approach to how people in debt are treated across the sector, nor sufficient flexibility to tailor support and collection practices to people's circumstances.

For example, payment deferrals are offered by providers but vary between 30 days and 60 days. There is an arbitrary cut off point used by different providers when assessing payment arrangements. *“Six providers said they offer payments plans with a maximum length of six months, while another provider said it offers payment plans for up to 90 days.”*

It does not appear that providers use the Money and Pensions Service Standard Financial Statement to assess ability to pay, and to determine what an affordable payment is for an individual customer. This is likely to mean many customers could end up on unaffordable repayment plans, which has a knock-on impact for people's finances and for their health and wellbeing. 70% of National Debtline clients surveyed in 2020, with telecoms debt, said that the actions of their telecoms provider had a negative impact on their wellbeing.⁶

Ofcom needs to take action to address this poor practice. We would suggest that the gold standard here would be to accept longer-term payment plans based on ability to pay, but that people are allowed to keep the essential elements of their service plan going, while on their repayment plan. This should be accompanied by advice on cheaper tariffs for services if these are available.

With consumer credit debts, under CONC rules, extra interest and charges are generally required to be frozen when people are in touch with their lenders and put a payment plan in place. This should be a requirement on telecoms providers to take the same approach. However, the paper states:

4.39 Some providers indicated that, in addition to imposing service restrictions, they issue extra charges such as late payment charges, administrative fees and/or call barring charges when a service restriction is imposed.

In our view, this is counterproductive and does not encourage people to engage with their provider or take steps to deal with their debts. Ever spiralling costs and charges also make it harder for people to resolve their debt problems and get back on track with their payments.

Where a debt is passed on to a debt collection agency or sold to a debt purchaser, then we would reiterate the point from question 3 that all telecoms providers should be required to use debt collection agencies regulated by the FCA irrespective of the regulatory status of the providers.

There should also 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.

⁶ 2020 National Debtline client survey, Base: 117 clients with telecoms debt.

As we have said, we would urge Ofcom to align its general conditions and guidance to match the FCA rules and requirements. This would mean that the practices of telecoms providers who are not regulated by the FCA could match those that are.

In terms of providing support to people in debt, it is not clear if providers consistently adopt the best practice approach of appointing designated specialist teams that are trained to support people in debt or people with vulnerabilities. The consultation paper states that Ofcom merely “encourages” them to do so.

We agree that information on the options available should be added to web pages and to the information sent out to customers in various formats. However, this does not seem to be sufficient to deal with the issues uncovered.

Our conclusion is that it is not adequate to merely amend the guidance. We believe that Ofcom should strongly consider amending the general conditions. 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.

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