



Action for Warm Homes

National Energy Action (NEA) response to 'Guidelines for water companies in supporting residential customers pay their bill, access help and repay debts: a consultation'

July 2021

About National Energy Action (NEA)

NEA¹ works across England, Wales, and Northern Ireland to ensure that everyone in the UK² can afford to live in a warm, dry home. To achieve this, we aim to improve access to energy and debt advice, provide training, support energy efficiency policies, local projects and co-ordinate other related services which can help change lives. NEA is also working with Northumbrian Water Group (NWG) and other water companies to eradicate water poverty by 2030. The programme aims to establish an industry acknowledged definition of water poverty and a more consistent and joined up strategy to deliver positive outcomes for customers struggling with their water bills.

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Background to this response

In November 2020, NEA published ‘Surviving the Wilderness: the landscape of personal debt in the UK’³; a review of debt support and guidance across energy, water, and council tax – the three most common types of household debt. Areas of best practice were highlighted in each sector, alongside opportunities to make improvements and to be more consistent across all sectors.

Recommendations included:

- Government bringing forward Breathing Space (*now live*) and extending the respite period offered,
- Government making contributions for payment matching schemes,
- Consistent ‘Ability to Pay’ and debt collection principles implemented across all utilities,
- Maximising opportunities for data sharing, such as building on the Priority Services Register and acting on powers within the Digital Economy Act, to ensure support is offered to customers moving into financial difficulty at the earliest opportunity; and
- All utility companies considering how a measure of ‘severe indebtedness’⁴ could ensure customers are treated fairly.

Following the launch of this paper, Ofwat asked NEA to prepare a separate document providing commentary to aid the upcoming review of the guidance for dealing with household customers in debt (last updated in 2015). This was shared with Ofwat in November 2020 and outlined comments against each of the five principles in the existing guidance document, as well as some general suggestions for improvement, such as working towards more consistency with the energy industry and their ability to pay principles.

In January 2021, the water poverty lead at NEA was partially seconded to CCW to join the project team responsible for conducting the independent review of affordability support in water, as commissioned by Defra and Welsh Government⁵. This provided the opportunity to influence the outcomes of the review, to ensure that actions to prevent financial difficulty in the first instance and appropriate services to support customers when things did go wrong were covered in the resulting actions and recommendations. Recommendations included basing debt support on a customer’s individual circumstances and ability to pay, taking action to prevent financial difficulty, and providing customers with greater choice and control over how they pay their water bill. NEA will continue to support the industry to implement the recommendations made in the review, and ensure momentum is not lost.

NEA therefore feels well positioned to respond to this consultation which seeks to make it easier for customers to pay their water bills, access help when needed, and ensure they are adequately supported when in debt.

Our response to this consultation

Our response has been structured in two parts; firstly, we provide some general comments on the overall approach taken in this guidance and how it aligns to other activity in both the water industry and cross-sector, and secondly, we provide more detailed responses to the consultation questions outlined in the document. Throughout our response, we have offered recommendations for improvement, and requirements to safeguard customers in vulnerable circumstances. We believe there are three main themes for Ofwat, which have been outlined below:

- The requirement to undertake a cost-benefit analysis and impact assessment, to better understand the costs associated with implementing all proposed minimum expectations against the intended benefits for customers.
- To learn from best practice and incorporate ‘ability to pay’ principles into the water supply licence, alongside the development of a framework to accurately and consistently assess ability to pay for individual customers.
- The opportunity to develop a wider vulnerability strategy, including some of the broader principles around making it easy to pay and making support accessible when needed.

General Comments

The approach taken by Ofwat to define seven high-level principles, and a series of minimum service expectations provides a straightforward structure to work from and makes it easier to understand what is required than the previous document which was written in prose. Any moves to Principle Based Regulation (PBR) must enhance current protections, particularly for vulnerable consumers. For this reason, NEA favours the adoption of a hybrid approach to PBR where overarching principles are adopted alongside relevant licence protections, subject to suitable enforcement for repeated failure to comply. It would be prudent for Ofwat to review which of the proposed principles could be incorporated into the water company licences to truly safeguard the people this guidance is targeted to support.

Principle six, “agree payments that are right for each customer in debt”, is most aligned to Ofgem’s Ability to Pay principles, which NEA has often referenced as best practice. In December 2020, Ofgem incorporated the ability to pay principles into the supplier licence conditions⁶. This was in response to concerns that not all suppliers were applying the principles consistently when setting up repayment plans, despite the principles having been in place since 2010. This is one area where we would recommend Ofwat strengthens their regulation, but there may be others.

NEA has long advocated that prevention is better than the cure. Regulators and companies need to consider the payment journey in its entirety, finding ways to identify financial vulnerability at the earliest opportunity and intervene appropriately to prevent issues occurring in the first place. It is therefore refreshing to see that Ofwat has considered how to make it easier for customers to pay their water bills in their first proposed principle, and the second being focused on those eligible for help receiving it when needed.

A number of the proposed minimum expectations appear to meet, either in full or partially, the recommendations made in the CCW affordability review⁵. To build on the momentum of the review, and respond so quickly to its recommendations, is very welcoming to see. However, it may make it simpler for companies to implement, and for stakeholders to understand, if the content of this guidance document was split into multiple documents instead. There could be separate guidance for

debt management, support with affordability issues, and more general payment accessibility (which could be incorporated into pre-existing customer service guidance).

While the proposed minimum requirements are very thorough, we are concerned that the sheer number of points may cause a challenge for companies to implement. In total, 138 requirements are cited in the consultation document, in addition to the seven high-level principles, compared to 56 expectations and five principles previously. Before the decision to proceed is taken consideration should be given to a) how companies will fund the activity required to meet all of the proposed requirements without increasing customer bills, and b) how Ofwat will monitor performance to ensure these 'minimum service expectations' are met consistently by all water suppliers.

This being said, we feel that Ofwat's intention to support the people most struggling with their water bills is clear and is welcome. The insights from the Listen Care Share campaign have been considered, alongside additional research, and Ofwat has sought to strike a balance between giving companies flexibility and protecting customers. This is a good step forward, which could benefit from some refinement alongside some stricter regulation.

Consultation Questions

The remainder of this consultation response answers the questions outlined, in order.

Q1. Do our guidelines strike the right balance between offering sufficient protection and support for individual customers, while allowing companies flexibility to recover revenue for the benefit of all customers?

These guidelines are very thorough and, if all implemented, could offer improved protections for customers struggling to pay their water bills. However, as highlighted in the general comments section of this response, we believe thorough consideration needs to be given to the cost of implementation for such a long list of expectations.

Service improvements such as these must be introduced without additional cost or detriment to customers. If the improvements led to a reduction in overall debt levels, this in turn would reduce the bad debt charge on customers' bills, but customers will not see the benefit of this if the costs to make the improvements exceed the reduction in debt.

To ensure companies retain the flexibility required to recover revenue through enforcement action, we feel that minimum expectations 5.12 – 5.14 should be accompanied by additional guidance to support their application. Ofwat must define which customers are exempt from enforcement action, and which are not, outlining possible pathways for enforcement action without exhausting *all* other repayment options (specifically regarding those customers who the company can prove are 'won't pay' rather than 'can't pay' customers). Without doing so, the ability to recover revenues may be detrimentally impacted, which could in turn increase bills for other customers. But this must be done carefully, and a thorough assessment of vulnerability must be completed (and adequately evidenced) to ensure that those who truly 'can't pay' aren't incorrectly categorised as 'won't pay'. Improved identification of vulnerability, using all available data sources, will be extremely important in achieving this, and this is described further in our response to Q4.

Q2. What impact do you think our guidelines will have on customer experiences in terms of payment, help and debt?

If all expectations were implemented and enforced, then substantial improvements for customers struggling to pay their water bills could be achieved. The seven principles cannot be argued with – they outline good standards of customer service which should be expected from any interaction with a company, both internal and external to the water industry.

The approach to enforcement across the water industry was highlighted as best practice in our 2020 paper, 'Surviving the Wilderness: The landscape of personal debt in the UK'. Regular and open communication channels between the debt agency, company and customer is extremely effective, and makes it easier for customers to discuss their ongoing arrangements. Engaging a reputable company who abides by the FCA handbook for debt recovery processes is critical to meeting the goal of being 'non-threatening and courteous', and it is good to see this retained.

One welcome improvement is seen in principle three, 'treat customers that have their accounts managed by agents as customers of the company'. It was highlighted in our paper that customers who had billing arrangements with their local authorities would be subject to the local authority debt collections process. The requirement for them to receive the same level of service as those who have a direct billing relationship with the water company is extremely welcome, though this may require some additional thought as to *how* companies will ensure this happens.

Q3. Are the minimum service expectations set out in the guidelines appropriate? Do any need to be added, removed or changed?

As referenced earlier in this response, the minimum expectations proposed are very thorough, but also very extensive. There is a 146% increase in the number of expectations compared to the current debt guidance from 2015. A thorough cost-benefit analysis must therefore be undertaken to better understand the costs associated with implementing all proposed minimum expectations against the intended benefits for customers, and Ofwat should be prepared to amend their proposals should this cost-benefit analysis prove the costs outweigh the benefits. Additionally, NEA would encourage Ofwat to consider the following points before proceeding with this number:

- 1) How will companies fund the activity required to meet all of the proposed requirements without increasing customer bills? and,
- 2) How will Ofwat monitor performance to ensure these 'minimum service expectations' are met?

There are some areas of the proposal which may be better suited elsewhere, by enhancing pre-existing guidance in other areas, such as customer service standards. Examples of this include the expectations around communication options, payment methods, and bereavement. Many of the expectations under principles one and two, could better sit under a vulnerability strategy, providing clear direction to all companies on how to support customers in vulnerable situations across all areas of their business. This is something NEA has long called for in the water industry, after seeing

the many achievements made in the energy industry since Ofgem's first vulnerability strategy was published in 2013.

We recognise the attempts Ofwat has made in the past to raise awareness of vulnerability issues and the need for water companies to do more by publishing reports such as Vulnerability Focus in 2016, but to truly embed support for vulnerable customers across the industry, there should be a central focus provided by the regulator. A Vulnerability Strategy could provide both Ofwat and water companies with a framework to guide all decisions by considering how they might directly, or indirectly, impact customers in vulnerable circumstances, and how customers' needs can be safeguarded where required. NEA see this strategy as being separate to the wider strategy, 'Time to Act Together', but feel that it could be aligned to the three strategic goals with more vulnerability-specific guidance and initiatives outlined.

In their most recent vulnerability strategy, Ofgem outlined their intent to introduce a licence obligation on how gas and electricity networks treat consumers in vulnerable situations as part of the RIIO-2 price control process. This principles-based condition will be similar to those found under Condition 0. (Treating Customers Fairly) and SLC 0 (Standards of Conduct) of the Electricity and Gas Supply Licence Conditions. We feel this is a significant step forward in supporting customers in vulnerable situations and believe the water industry licences should do the same.

Q4. How can we encourage consistency of approach across the sector?

Principle six, "agree payments that are right for each customer in debt", is most aligned to Ofgem's Ability to Pay principles, which NEA has often referenced as best practice. In December 2020, Ofgem incorporated the ability to pay principles into the supplier licence conditions⁶. This was in response to concerns that not all suppliers were applying the principles consistently when setting up repayment plans, despite the principles having been in place since 2010. NEA would encourage Ofwat to learn from Ofgem's experience in this area and incorporate this principle into water company licences.

Additionally, it is often beneficial to develop a framework for companies to use to apply principles such as these; NEA are commencing a piece of work focused on designing an ability to pay framework which could be used across both the energy and water sectors and would ensure customers are treated fairly and consistently when companies assess the payments most appropriate for them. We would be happy to discuss this with Ofwat further.

The energy industry has seen significant improvements in the services available to customers in vulnerable circumstances in recent years, particularly since the networks were required to undergo an annual incentivised assessment process (the Stakeholder Engagement and Consumer Vulnerability incentive). This encouraged innovation and provided an opportunity to share best practice across the industry. As the process has developed over time, Ofgem has adjusted the baseline for assessment, recognising that certain initiatives could and should become business as usual. By doing so, they have created a more consistent baseline of support across the energy networks. This increase in transparency, alongside a focus on reputational competition, is one option Ofwat could explore to ensure consistency is reached across the industry.

An additional option, which could work in parallel, is the creation of an industry working group for affordability and vulnerability. This would bring together representatives from all water companies, to agree a collaborative approach to supporting customers most in need. This has been seen in the energy sector, with the creation of the Safeguarding Customers Working Group, led by the Energy Networks Association, and a similar approach was seen in the early stages of the pandemic where water companies came together to agree a minimum set of services to be made available to customers as part of their Covid response.

NEA has called for the completion of the water and energy PSR data sharing project, as a means of improving the identification of customers in vulnerable circumstances. We believe this should be expanded one step further to include a flag for financial vulnerability. This would allow a water company to inform an energy supplier (or vice versa) of potential financial difficulty, allowing the receiving company to appropriately intervene and offer support before the customer's debt situation worsens. We believe this would be a simple, yet extremely effective, addition to the PSR, and could provide another mechanism for identification and possible prevention of debt issues.

Finally, in our 2020 paper 'Surviving the Wilderness'³, we proposed companies develop a measure of 'severe indebtedness'⁴ to measure the severity of a customers' debt more consistently. This would compare the size of a customer's debt to their annual cost for the service, and staged interventions could be implemented to ensure communication was made with each customer to offer appropriate debt support. This measure could also form the aforementioned financial vulnerability flag for any changes to the PSR.

Q5. Our expectations for companies to 'Show customers how their views on billing, payment and support are encouraging improvements to services' (see expectations 1.24 to 1.30) include companies reporting on the findings of their customer research. We would welcome views on whether this is appropriate – and (if so) the format and frequency.

Increased transparency and visibility of how and why decisions have been made are useful to other utility companies wanting to replicate best practice, to stakeholders reviewing the differences between each company and learning from varied approaches, and, to some extent, customers who seek justification on how their money is being spent. It is therefore welcome to see a requirement to publish water company research, and for that research to be representative of residential customers and used to improve services.

Whether or not this research would be of interest to the majority of customers would remain to be seen. Our initial assumption is that this would only be of interest to a small subset of customers and would be more appropriately targeted at stakeholders. Increased visibility of company performance, however, would be relevant to a wider range of customers, and should be something which is explored separately.

As recommended in the outcomes of the CCW Independent Review of Affordability in Water⁵, we agree that "Ofwat should direct companies to publish affordability and vulnerability data annually". We believe this should also be collated in a high-level report by Ofwat, and available at company level on each respective website. Ofgem require energy suppliers to provide information about their performance against their social obligations under Supply Licence Condition 32. This includes

payment methods, levels of debt and debt repayments, disconnection rates, prepayment meters, and non-financial support for customers in vulnerable situations⁷. While not all of this information will be directly replicable by the water industry, the model could be. Ofgem publish this data annually to try and increase transparency of the industry as much as possible, and we would encourage Ofwat to do the same.

Q6. We have had feedback and received customer testimonies that companies can sometimes quickly move from payment prompts to debt recovery action. Should companies give three prompts rather than two (see expectation 4.9) for customers to contact their company? We would also welcome views on whether companies should send prompts by different means to avoid errors in contact details causing customers to fall into debt unnecessarily.

It is vital that customers are provided adequate time to rectify any missed payments. In our opinion, this should include a minimum of two reminders *in addition* to the bill. The proposed requirement to have two prompts including the bill in essence only translates to one reminder. The reminders should be issued using more than one method; the first method to be lighter touch such as email, SMS, or telephone call, and the second attempt to be sent by post. This avoids errors in contact details or customers avoiding certain contact methods, such as ignoring letters due to increasing pressures from creditors. In addition, this would be more cost effective than both reminders being sent by post, and if payment is made following the first reminder may only cost a few pennies before seeing a return.

In addition to the number of reminders and the methods used, we think it is important to also consider the length of time between correspondence, to allow customers reasonable time to make payment. This is noted in expectation 4.10 and should be required before each reminder is issued.

¹ For more information visit: www.nea.org.uk.

² NEA also work alongside our sister charity Energy Action Scotland (EAS) to ensure we collectively have a UK wider reach.

³ <https://www.nea.org.uk/wp-content/uploads/2020/10/Surviving-the-wilderness-final-version.pdf>

⁴ We propose 'severe indebtedness' is a measure of the size of a customer's debt compared to their annual cost for the service, with staged interventions at certain levels to ensure all customers are treated consistently.

⁵ The independent review of water affordability support concluded in May 2021. A full report including 10 key recommendations, and 40 associated actions is available at <https://www.ccwater.org.uk/wp-content/uploads/2021/05/Independent-review-of-water-affordability.pdf>

⁶ https://www.ofgem.gov.uk/system/files/docs/2020/10/self-disconnection_and_self-rationing_decision.pdf

⁷ <https://www.ofgem.gov.uk/energy-policy-and-regulation/policy-and-regulatory-programmes/consumer-vulnerability-protections>