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Consultation Response:

Ofwat Customer licence condition consultation

Response by the Money Advice Trust

Date: July 2023

Contents

- **Page 2** Contents
- **Page 3** Introduction / about the Money Advice Trust
- **Page 4** Introductory comment
- **Page 5** Responses to individual questions
- **Page 9** Contact details

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 2022, our National Debtline and Business Debtline advisers provided help to 140,980 people by phone, webchat and our digital advice tool with 1.87 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 2022 we delivered this free training to 2,780 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 opportunity to respond to the Ofwat consultation on introducing a new customer-focused licence condition.

We are generally supportive of the intentions behind the new licence condition. We are pleased that the aim is to enhance existing guidance so that it becomes binding on the company to follow. We would like to see strengthening of the vulnerability guidance and the debt collection guidance as a priority.

Whilst we understand that regulatory principles can be helpful, it is vital that company compliance with the binding guidance is monitored and enforced. There is no benefit to consumers if broad principles and guidance are treated as good practice rather than minimum standards that companies must be compliant with. There must be a requirement on companies to ensure good consumer outcomes for their customers and this must be subject to a rigorous supervision regime by the regulator to ensure compliance.

- ✓ Given that Ofwat acknowledges issues with debt recovery agents, we would suggest that the wording of G4.6 is changed to ensure that the water company remains responsible for the actions of any debt recovery agency or high court enforcement agent that they appoint to recover debt.
- ✓ We do not agree with the proposal to exclude non-households from the condition relating to customers struggling to pay or who are in debt. We would like to see a clear requirement for business retailers to provide support for non-household customers in debt, at the very least where this is a small business.
- ✓ We would very much like to see a review of the “Paying Fair guidelines” to ensure that this guidance for how to treat people in debt becomes binding guidance.
- ✓ We welcome the intention to consult on revised, binding vulnerability guidance this year.
- ✓ We would expect Ofwat to introduce stringent new reporting requirements on firms to demonstrate their compliance with the new licence condition and to promote transparency.

Responses to individual questions

Question 1: Do you have any comments on the outcomes or examples?

The outcomes set out the basics of customer service that water companies should be following. The examples are good illustrations of both good practice and how things can go wrong.

We are pleased to see that Ofwat notes in the example areas for improvement, that they are aware of problems with debt recovery.

“We also continue to hear about occasions where customers whose accounts are managed by debt recovery agents do not receive the same level of service and care as those whose accounts remain with the water company.”

We would again like to take this opportunity to raise a fundamental problem with practices in the water industry in relation to debt enforcement. We are very concerned that water companies continue to enforce county court judgments by using high court enforcement. We think it is poor practice for energy and water providers to use HCEOs as it adds complexity, unnecessary stress and excessive court costs and collection fees for consumers who are likely to be in particularly vulnerable circumstances. This practice is disproportionate and undermines the intentions behind the Ofwat guidelines. We believe that Ofwat should review the practice of water companies resorting to high court enforcement to collect debts with the view to ending the practice altogether, or at the very least greatly enhancing the safeguards that must be in place before such action can be taken.

We would suggest that the wording of the principles is strengthened to reflect this point and have set this out in our response to question 2.

Question 2: Do you have any suggested changes to the proposed wording of the principles to meet our specified outcomes for households?

Given that Ofwat acknowledges issues with debt recovery agents, we would suggest that the wording of G4.6 is changed to ensure that the water company remains responsible for the actions of any debt recovery agency or high court enforcement agent that they appoint to recover debt.

“As part of meeting principle 4.5 above, the Appointee provides support for customers of the Appointee who are struggling to pay, and for customers in debt.”

Ideally, as we have said, we would like to see the practice of water companies using high court enforcement to enforce county court judgments to be prevented by Ofwat. It may not be possible to expand the wording of G4.6 to reflect this, but we would like to see this proposal within revised debt collection and vulnerability guidance.

Question 3: Do you agree with our proposed approach to exclude non-households from the condition relating to customers struggling to pay or in debt, consistent with corresponding non-households served by a retailer?

We do not agree with the proposal to exclude non-households from the condition relating to customers struggling to pay or who are in debt. G4.6 states:

“As part of meeting principle 4.5 above, the Appointee provides support for customers of the Appointee who are struggling to pay, and for customers in debt.”

The paper states:

“This reflects the different type of support which we think is appropriate and mirrors the protections which apply in the business retail market in England, where there is no requirement on business retailers to provide support for non-household customers in debt.”

The Money Advice Trust runs Business Debtline which helps people who run micro-businesses who are in debt. We are in a unique position to reflect on how the customer protections for small businesses in arrears with their utilities and water do not begin to match those in place for retail consumers. As many small businesses are essentially running micro-businesses generating minimal returns, alongside running a domestic household, in our view they need much the same protections as domestic consumers.

We would like to see a clear requirement for business retailers to provide support for non-household customers in debt, at the very least where this is a small business. Most of our clients are in extremely difficult situations, running a business and trying to pay their household bills as well. They should have similar support to a domestic household in our view.

Our latest impact survey shows that 79% of Business Debtline clients operate their businesses from home. As of September last year, more than a half (54%) of Business Debtline callers had a total household income of less than £20,000. Our research with adults across the UK, conducted in August 2022, found that 16% of self-employed people had gone without electricity, water or heating in the three months prior, due to the rising cost of living.¹

Added to this, many small business owners and self-employed people are facing higher business costs in addition to higher energy and water costs, at a time when the increased cost of living is leading to less consumer spending. Taken in conjunction, for many small business owners the challenges are particularly acute, especially if their income is low.

¹ Money Advice Trust, *Impossible Choices: An updated snapshot of the challenges facing households on the cost of living, September 2022*

We note that most non-household customers in England receive services from separate business retailers. We also note that Ofwat is conducting a review of the Customer Protection Code of Practice for businesses in 2023/4. We would urge Ofwat to consider that small businesses are as likely to be in vulnerable circumstances and struggling to pay as domestic households. We would like to see Ofwat recognising this within the guidance.

Question 4: Do you agree with our proposed approach that the remainder of the licence condition apply to non-household customers without a retailer?

We believe that the full licence condition should apply in all cases.

Question 5: Should any areas of customer service be prioritised in our development of the guidance? If so, which areas?

We are pleased to see that there will be supplementary guidance to support the principles for customer service and support set out in the draft licence condition. We note that the intention is for Ofwat to enforce the principles with reference to the guidance. We also understand that guidance can be more flexible and be amended more frequently than the licence conditions.

We very much support the Ofwat intention to make the guidance binding and to issue new formal guidance to supplement the licence condition. We would very much like to see a review of the “Paying Fair guidelines” to ensure that this guidance for how to treat people in debt, becomes binding guidance.

We also welcome the intention to consult on revised vulnerability guidance this year. It also makes sense to prioritise the requirements for water companies with regard to communication channels and complaints. The Ofgem consumer standards consultation will be relevant with regards to requirements on companies in relation to communication channels.

Question 6: Which matters / company activities will benefit from having more detailed guidance, and which less?

We are unable to identify which activities would benefit from less detailed guidance. As the intention is that Ofwat will use guidance to supplement licence conditions, then we see merit in comprehensive and clear guidance. We cannot see that less detailed guidance would be helpful in this context as companies may have more leeway to follow their own policies that may not be compliant with the licence conditions.

It is important that the various sources of guidance are consolidated into a single set of updated clear guidance that is binding on companies. This will make it easier for both companies and consumers and consumer bodies to navigate and be less confusing overall.

Question 7: Do you agree with our proposal to include reference to CCW as a consultee within guidance?

Yes, it seems eminently sensible to require companies to consult CCW as part of the process of putting together consumer-facing policies and procedures. There should be a clear process put in place to ensure this happens.

Question 8: How can we gather further insight on company performance in this area?

Monitoring and evaluation requirements need to be robust, and to be focussed on good consumer outcomes for water customers. We would suggest that Ofwat needs to set out what success looks like and how it proposes to measure successful consumer outcomes in relation to the licence conditions. This will be of great help to companies. The lack of such requirements could hinder effective supervision and will make it impossible to collate standardised data for assessment if firms are using their own metrics.

Question 9: What are your views on annual reporting requirements to monitor compliance against the licence condition?

We would expect Ofwat to introduce stringent new reporting requirements on firms to demonstrate their compliance with the new licence condition and to promote transparency. This should include a range of designated information that firms must gather and report on.

Without systematic reporting requirements, we do not think Ofwat will be able to assess if any particular company is producing fair outcomes for its customers rather than just adhering to processes that may look good, but do not lead to good outcomes for their customers.

Question 10: What are your views on our proposed timescales for implementation?

The proposed timescale looks reasonable given the requirement to follow the statutory consultation process after this consultation ends.

Question 11: What are your views on consequent changes to other conditions in licences and are there any other changes we should make?

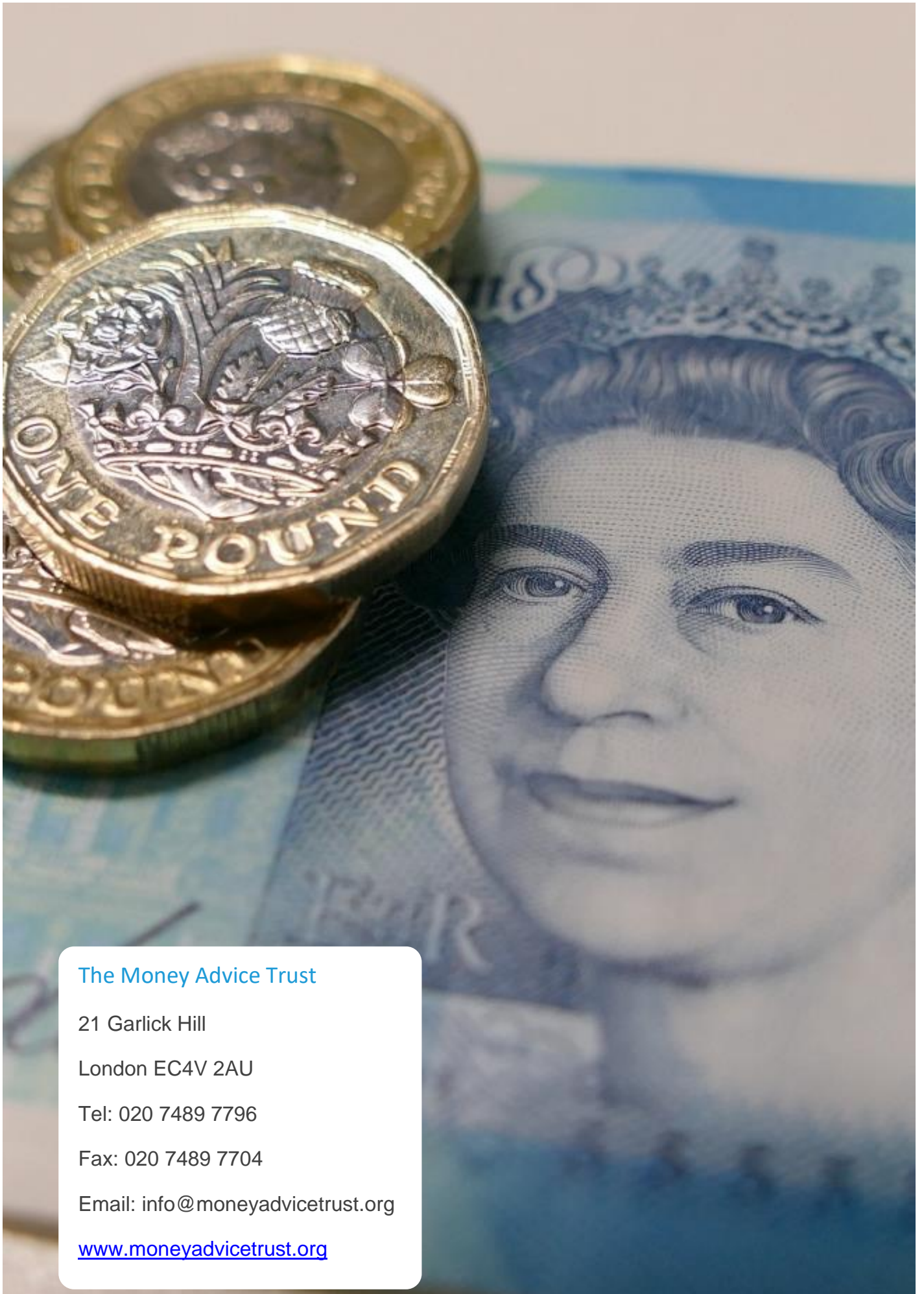
It appears sensible to revise the other areas of the licence as set out in the paper. We are not aware of any further licence conditions where there should be further changes made.

For more information on our response, please contact:

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