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Consultation Response:

Ofgem Supplier Licensing Review: ongoing requirements and exit arrangements

Response by the Money Advice Trust

Date: August 2020

Contents

- **Page 2** Contents
- **Page 3** Introduction / about the Money Advice Trust
- **Page 4** Introductory comment
- **Page 5** Responses to individual questions
- **Page 6** 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 2019, our National Debtline and Business Debtline advisers provided help to more than 199,400 people by phone and webchat, with 1.97 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 2019 we delivered this free training to over 981 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 comment on the final proposals coming out of the Ofgem supplier licensing review. We very much support Ofgem's aim to drive up standards across the energy retail sector.

As a debt advice charity, we have limited our comments to the section on the proposed measures relating to exit arrangements.

- ✓ We very much support Ofgem's intention to protect customers whose debts are handled by an administrator as part of the SoLR process.
- ✓ Customers who are in debt to their supplier should clearly benefit from the same basic protections in the event of supplier failure, and Ofgem is right to address this anomaly.
- ✓ We think this is one of the proposals within the consultation that should be prioritised to ensure that consumer protections are put in place as speedily as possible.
- ✓ We would also emphasise that Ofgem should be prepared to take further action if there continues to be unfair debt collection practices as a result of the administrator process.

Comments on the final proposals for exit arrangements

We very much support Ofgem’s intention to protect customers whose debts are handled by an administrator as part of the SoLR process. The SoLR process generally performs an important function, ensuring that consumers continue to receive an uninterrupted supply of gas and electricity and their credit balances are protected. Customers who are in debt to their supplier should clearly benefit from the same basic protections in the event of supplier failure, and Ofgem is right to address this anomaly. As a debt advice charity we have been dismayed to encounter cases where the consumer protections associated with energy debts no longer apply and the client is left to deal with what has become an unregulated debt. As Ofgem notes:

“In some situations, the practices by some insolvency practitioners have caused consumer distress, for example through particularly aggressive debt collection approaches, some of which have been in respect of vulnerable consumers.”

We welcome Ofgem’s specific proposals to remedy this discrepancy.

“We intend to introduce a requirement for suppliers to include references in their contract terms and conditions that activities relating to debt recovery will be executed as outlined in relevant licence conditions.

We will also continue to engage with the relevant regulatory bodies for insolvency practitioners, and where possible consider whether there are opportunities to work together to ensure energy customers are treated in a fair and reasonable way.”

We think this is one of the proposals within the consultation that should be prioritised to ensure that consumer protections are put in place as speedily as possible, ahead of the winter months which are generally more likely to see suppliers fail. If necessary, we hope Ofgem will adopt a risk-based approach, prioritising compliance by those suppliers most at risk of failure.

We are conscious that some Insolvency Practitioners may not be familiar with good practice in dealing with customers in financial difficulty. We note that Ofgem intends to engage with regulatory bodies in the insolvency sector. There may be a role for engagement with the money advice sector here as well.

There are a number of challenges that need to be resolved and we would seek clarity from Ofgem as to whether their proposals will adequately cover the following points.

- ✓ Confusion for customers as to who is handling the unexpected debt which could be the equivalent of a single direct debit payment. This is because the cost of any energy used by the customer up to the point when the old supplier failed, will need to be paid to the administrator instead.
- ✓ Payments not being credited to existing utility account to clear the existing balance, but used as credit for new account.
- ✓ Passing the account to a firm of insolvency practitioners who use unregulated debt collection firms to pursue the debts.
- ✓ The administrator ignoring existing payment plans when taking over the debt.
- ✓ Disputes about estimated bills and inaccurate meter readings.
- ✓ The responsibility on the insolvency practitioner to implement the existing Ofgem rules on back-billing rather than collect debts going back up to six years.
- ✓ The lack of clarity as to the impact of the debts on an individual credit report.

Finally, we would emphasise our view that Ofgem should be prepared to take further action if there continues to be unfair debt collection practices as a result of the administrator process despite the changes proposed here. Should this turn out to be the case, Ofgem should revisit the issue and explore alternative options. This would include, for example, requiring the administrator to pass consumer debt to the new supplier instead, so that the new supplier can manage the debt in accordance with the usual Ofgem rules.

For more information on our response, please contact:

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