

MONEY  
ADVICE TRUST

BUSINESS  
DEBTLINE

NATIONAL  
DEBTLINE

WISER  
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Consultation Response:

# Ofgem Supplier of Last Resort Levy Offset consultation

Response by the Money Advice Trust

Date: April 2024

# Contents

- **Page 2** Contents
- **Page 3** Introduction / about the Money Advice Trust
- **Page 4** Our response to the consultation
- **Page 6** Sample case studies
- **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 2023, our National Debtline and Business Debtline advisers provided help to 127,390 people by phone, webchat and our digital advice tool with 2.38 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 2023 we delivered this free training to 800 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](http://www.moneyadvicetrust.org).

## Public disclosure

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

# Our response

As a debt advice charity, we have not responded to the questions in the consultation paper as these are generally beyond our scope.

We would make the point that it is extremely disappointing that failed suppliers have cost consumers about £83 per household since 2021. We hope that the measures Ofgem have put in place will help to prevent such failures in the future. The burden of costs for supplier failure appears to have primarily fallen upon consumers which has helped to create an extremely challenging cost of living situation for consumers grappling with high bills. We would like to see Ofgem reconsider how the costs are allocated in the event of supplier failure in future.

We have identified key impacts that should be considered in relation to the consumer experience of the SoLR process. We do not consider that overall, this process is of benefit to consumers for the reasons set out below. The impact on consumers in debt with their suppliers has not been considered in the paper.

We can comment on the current supplier of last resort process SoLR and the special administration regime (SAR) as these relate to people who are in arrears with their energy bills at the point their supplier fails.

- ✓ We believe that credit balances should be ringfenced so that any failed supplier cannot use customer credit balances towards their own insolvency costs. This should mean that consumers are not at risk of losing their credit balances and these can be seamlessly transferred to their new supplier under the SoLR process.
- ✓ When it comes to customers in arrears with their energy bills, we believe that the SoLR process should be strengthened to ensure that these consumers are treated fairly.
- ✓ The SAR has not been used regularly but we would note that when Bulb customers were under the SAR, they could still make complaints about their supplier to the Energy Ombudsman. In addition, Bulb customers continued to be subject to Ofgem regulation including licence conditions and debt recovery guidelines.
- ✓ This is in contrast to how consumers in arrears are treated under the SoLR process. As we understand it, when a supplier fails, Ofgem will appoint a SoLR and the failed supplier enters the insolvency process. Once the administrator is in charge, they will attempt to recover energy arrears from individual consumers of the failed supplier.

- ✓ These customers are no longer subject to Ofgem regulations and cannot make a complaint about the way the administrator or their old supplier has behaved to the Energy Ombudsman. In theory, a complaint could be made to the Insolvency Gateway about an insolvency practitioner acting as administrator, but this is unlikely to apply.
- ✓ We understand that Ofgem has previously considered introducing a *“requirement for suppliers to include references in contract terms and conditions that activities relating to debt recovery will be executed as outlined in relevant licence conditions”*.<sup>1</sup> However, it is not clear if this has been introduced, and to what effect, as it was uncertain if administrators’ activities will be bound by this.
- ✓ In our experience, complaints and queries about inaccurate, or estimated bills, or debts that may not be owed at all or are unrecoverable due to back billing rules, go unresolved.
- ✓ As we understand it, the administrator may transfer the debt to a debt collection agency who does not have to be FCA authorised and does not have to follow the Ofgem licence conditions on how debt should be collected. This means that the Ofgem consumer standards<sup>2</sup> will not apply in relation to people in vulnerable situations, nor will the rules on how suppliers should support customers struggling with their bills apply.
- ✓ Supplier licence conditions (27.8A) stating that Ofgem expects repayment plans to be based on ability to pay, and being paused where someone is unable to pay will not apply under SoLR processes. This is a considerable gap in consumer protection and is likely to cause very real detriment to vulnerable people in debt if not addressed before any future supplier failures.

<sup>1</sup>

[file:///N:/consultation%20docs%20responses/Consultations%202020/Ofgem%20Supplier%20Licensing%20Review%20Ongoing%20requirements%20and%20exit%20arrangements/240620\\_-\\_slr\\_statutory\\_consultation\\_final.pdf](file:///N:/consultation%20docs%20responses/Consultations%202020/Ofgem%20Supplier%20Licensing%20Review%20Ongoing%20requirements%20and%20exit%20arrangements/240620_-_slr_statutory_consultation_final.pdf)

<sup>2</sup> [https://www.ofgem.gov.uk/sites/default/files/2023-10/Consumer%20Standards%20-%20Decision1697539480940\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/2023-10/Consumer%20Standards%20-%20Decision1697539480940_0.pdf)

## Example National Debtline case studies

### Case study One

*Client was supplied by a supplier that failed and was told they were in arrears. Client had tried to find out exactly how much was owed and was promised call backs and told that they may not owe a debt but then the supplier went under and heard nothing from them for 8/9 months. Then client has been sent a letter stating they owe money and have a week to pay it off in full otherwise the debt will be passed to a debt collection agency. Client did not receive any prior correspondence.*

### Case study Two

*Client is being chased for a debt that they were refunded as a credit. The supplier has passed debt on to a solicitor who has threatened further action against the client.*

### Case study Three

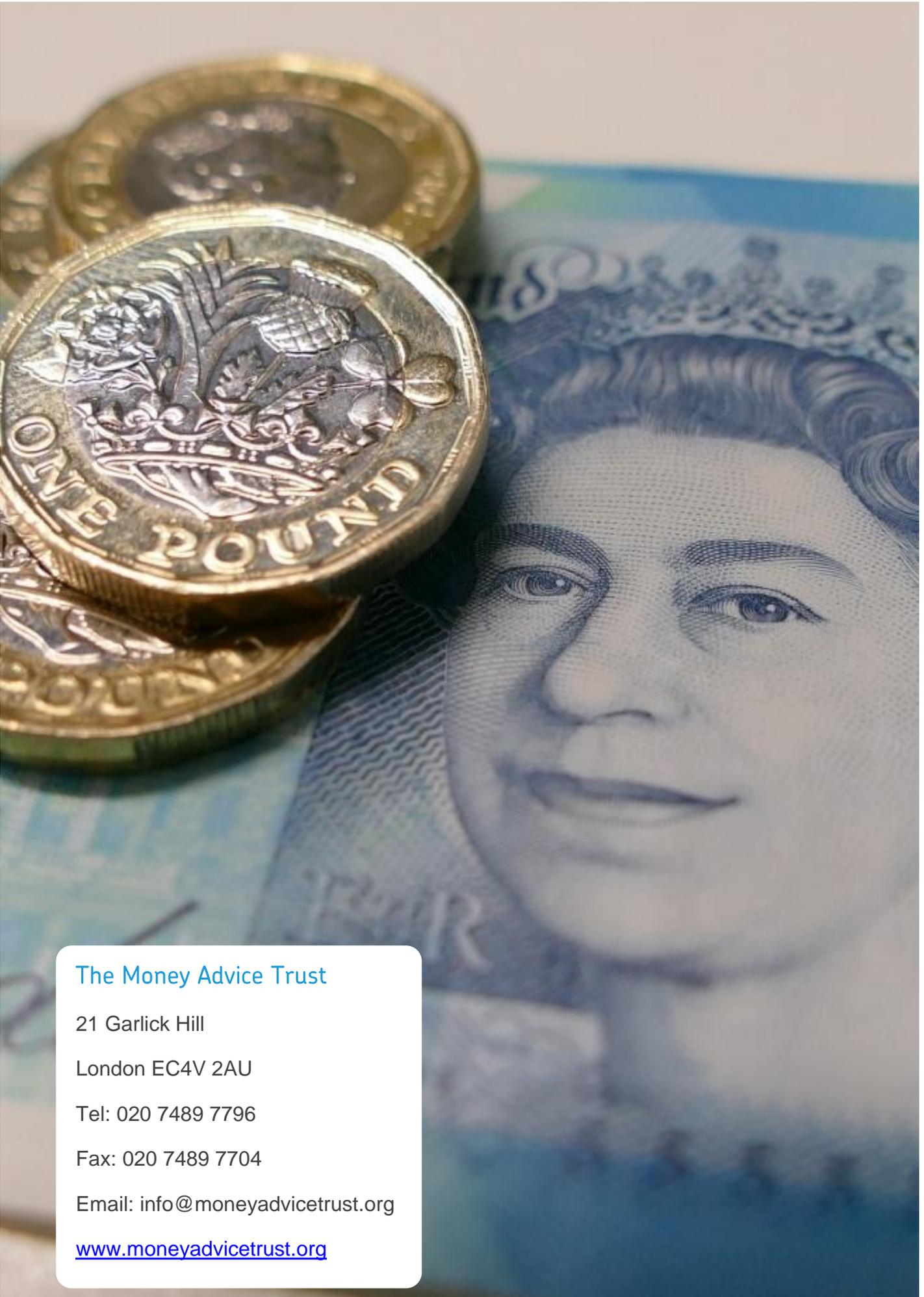
*Client is being chased for a final bill from when they were with their supplier. They switched to a new supplier before their old supplier went bust and didn't get a final bill until a year after they switched. Client queried this with the old supplier who took over previous supplier customers and they said it wasn't anything to do with them. Client is being chased by a debt collection agency regarding this, but it is now difficult for them to escalate any kind of dispute or complaint because the debt is being chased on behalf of administrators.*

For more information on our response, please contact:

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