



DEALING WITH CUSTOMERS IN DEBT
- GUIDELINES -

OCTOBER 2002

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Introduction

In April 1992 we first issued guidance to the water companies in England and Wales covering procedures for dealing with domestic customers in debt, who in some cases were liable to have their water supplies disconnected. In 1996 Ofwat's WaterVoice committees (then Customer Service Committees) were asked to report on the companies' progress in implementing the guidelines and in recent years assessments have been used to feed into Ofwat's overall performance assessment on customer service.

The Water Industry Act 1999 made it illegal for any water company in England or Wales, to disconnect for non-payment of charges, any dwelling which is occupied by a person as his only or principal home. This section of the Act came into force on 30 June 1999. In the light of the abolition of domestic disconnection, water companies have had to review and adapt or expand their range of debt recovery procedures in order to ensure that they are maximising their ability to collect debt from customers.

It is for companies to decide how revenue can most cost-effectively be collected. Ofwat fully supports the companies' right to collect bills from those who are or have received their services. However, there is a balance to be struck between recovering debt, in the interest of all customers, and dealing sensitively with those customers who genuinely find themselves in financial difficulty. The purpose of these guidelines is to set out how companies' policies and procedures might best take account of such customers' needs. They are not intended to provide advice on effective debt recovery, although many of the recommendations on ways of dealing effectively with customers in financial difficulty will assist in revenue collection.

Some customers, such as the elderly or those with disabilities, may have special needs which need to be considered by companies when communicating with them. These are not covered in detail here but are covered by separate Ofwat guidelines "Services for disabled or elderly customers – March 2001".

Consultation

A joint WaterVoice/Ofwat seminar held in May 2001, which was attended by water companies, WaterVoice committees and consumer groups, confirmed that although much of the existing guidelines were still relevant, they needed to be revised to reflect the current operating climate and legislation. The preference was for a less prescriptive approach, setting out the principles to which Ofwat believe the companies should adhere, while clearly exposing Ofwat's expectations of the water companies. This would allow flexibility for companies to tailor their approaches to fit the circumstances of individual customers while also providing safeguards for those in genuine difficulty.

The guidelines were subsequently reviewed and the following principles consulted on during 2002. We received responses from a wide range of organisations dealing with those in debt or on low incomes as well as from within the water industry. Respondents generally supported the guidelines but made a number of useful

suggestions which have been incorporated into this final document. Copies of the responses have been placed in the Ofwat library.

Revised guidelines

The guidelines which follow, cover what Ofwat considers to be the main issues for vulnerable customers, with reference to the various approaches which companies currently employ. They expose also Ofwat's expectations. They take account of the fact that companies are now more likely to make use of debt collection agencies and court procedures such as garnishee orders and charges on property for the collection of debt, and reflect the wider range of methods used in attempting to contact customers. They also attempt to draw a reasonable balance between allowing companies sufficient flexibility to devise and manage effective revenue collection systems while setting out as clearly as possible what we believe to be reasonable protection for customers.

Respondents suggested a number of areas where greater clarity was needed around Ofwat's expectations. Where feasible, these have been amended to reduce the risk of misinterpretation. However, in some areas, terms such as reasonable, realistic, adequate, need to be judged on a case by case basis if companies are to have scope to adapt processes for different groups of customers.

The Lord Chancellor's Department has for some time been reviewing the operation of the courts and enforcement procedures, to improve their effectiveness. While the outcome of this review may alter some aspects of debt recovery, we would not expect that this would affect the validity of the principles set out in this document. These guidelines relate to contact between the water company and its customers, rather than the workings of the court system.

We will continue to ask the WaterVoice committees to audit companies' handling of customers in debt and to report to us on companies' policies and practice. The committees will wish to be satisfied that the company can show that it acts according to its policies, and that staff are appropriately trained to ensure this. The committees' assessments will be taken into account in our assessment of companies' overall performance in delivering service to customers. We accept that it is important for companies to be assessed on a comparable basis and will work with companies and WaterVoice committees to promote consistency and sharing of good practice. We encourage companies to discuss with their WaterVoice committee any proposals to alter substantively their approach to debt management.

DEALING WITH CUSTOMERS IN DEBT – GUIDELINES

PRINCIPLE 1

Companies should be proactive in attempting to contact customers who fall into debt before proceeding to court action.

Current practice

Companies report that their main problem in obtaining payments is making contact with the customer. Once they have made contact it can be relatively easy to agree a payment arrangement.

Some companies have developed computerised billing systems which identify customers who have a record of late payment. They use these systems to contact the customer if payment is not made promptly, to attempt to arrange payment rather than issue a claim.

Systems have been developed to analyse customers' payment habits and tailor the type of correspondence sent to customers. For example, if the customer normally pays on receiving a solicitor's letter, the company can omit one or more of the items of correspondence which it would send before that letter. Alternatively the time between letters may be shortened, as the customer is unlikely to respond to them.

Reasonable time should be allowed for customers to pay the bill and 21 days has been suggested as a reasonable period. However some companies issue friendly reminders after 14 days and there is evidence to suggest that this can be particularly helpful for customers on frequent payment arrangements. Too long an interval may suggest to customers that payment is not a priority.

Timing can be a factor in achieving contact. Companies which attempt to contact customers outside of normal office hours, (in the evenings or at weekends) and vary the times at which they try to contact any one customer report improved contact rates. Some companies have debt helplines for customers to contact them.

Water company experience suggests that innovative approaches to debt recovery, are often most effective when they are new, and not expected by the customer. Once customers have become used to a set procedure, it becomes less effective and they are more likely to ignore reminders or letters. Customers are more likely to open a letter they receive outside of the usual recovery timetable, or to respond to an unexpected telephone call or visit. Companies should also consider whether they can use new technology to maximise the opportunities for contacting customers. This could include the use of faxes, emails or mobile telephone message facilities. A strategy which can incorporate changes in the ways in which customers are contacted may be more effective in the longer term than one which remains static.

Customers who are in debt may be reluctant to open mail which appears to have been sent by the water company. Companies report that customers may be more likely to open correspondence which is sent in an unmarked (i.e. no company logo), hand written envelope.

A number of companies have set up in-house debt collection agencies, which operate under names not directly linked to the water company and use separate headed stationery. Other companies use doorstep collection or set up collection arrangements with local authorities or housing associations in certain areas. Companies report that these can be successful in establishing contact with customers.

Expectations

Generally we expect to see companies adhere to the following:

1. At least two prompts (including the bill) to contact the company sent before issuing a claim.
2. Customers should be allowed time to pay their bill before a reminder is issued. An interval of least 14 days should be allowed before the first reminder is sent although 21 days may be more normal
- 3.
3. Each reminder should set out what will happen and when action will be taken if the customer fails to respond. The various actions the customer can take should be clearly set out.
4. A variety of communication methods should be considered to establish contact (telephone, mail, visiting and so on). The timing of attempted repeat visits and telephone calls will be varied where possible. Communication methods and timing should take account of any special requirements for those customers who are on the special needs register.
5. The timing and manner of such contacts should not be oppressive or threatening, and conform to accepted good practice, such as is set out in the Credit Services Association's guidelines.
6. Any new approaches or systems should not reduce opportunities for customers to approach the company and literature should encourage customers to communicate effectively with their supplier or collection agency.
7. The WaterVoice committee will wish to be assured that the water company has made a reasonable number of attempts to contact customers. Companies will therefore need to keep records showing how many times they have tried to telephone or visit individual customers, and the dates of reminders and notices, if they wish to demonstrate their good performance to the WaterVoice committee.

PRINCIPLE 2:

Companies should provide a reasonable range of payment frequencies and methods, for all customers. The entire range of options should be properly and widely advertised to ensure that customers can select the arrangement which best suits their circumstances.

Current practice

Each company sets out the range of payment options it offers in its Charges scheme, which the Director approves every year. This includes the methods by which customers can make payments and at which locations, as well as the frequency of instalments which the company will arrange. All companies offer a variety of options, although the range available varies across the industry. We ensure through the approval of charges schemes, that all companies offer at least a satisfactory range of payment options. Every company is required to offer accessible means for customers to make frequent payments in cash at no extra cost.

It is important that companies offer instalments for customers who prefer to pay more frequently: usually fortnightly or weekly. Options are now available for swipe card payments run through local shop networks (such as PayPoint and Payzone) where the customer can pay as frequently as he wishes, deciding on the amounts himself, but with set amounts to be paid off by certain dates. These options tend to be more popular among customers who need to budget for shorter periods of time; often those on lower incomes or state benefits.

Customers are more likely to make regular payments if the locations for payment are easily accessible. Companies have traditionally offered customers the chance to pay at banks and post offices, although the closure of isolated and small branches in recent years has reduced the number of available locations for payment. Local shop payment networks, such as PayPoint and Payzone can offer alternatives.

Many companies already offer payment options where the transaction cost is subsidised or free at selected locations.

Some companies also keep an open mind to other possibilities for payment, outside of the usual range offered, which customers may suggest. Where a customer offers to pay by a method which the company does not usually offer, the company will consider accepting the offer, in the interests of establishing a payment habit for the customer.

For customers who are in debt and in receipt of certain benefits it is possible to arrange for payments to be deducted direct from the benefit. All companies currently offer this option but customers can choose whether to take up the option. We are pressing for water payments to be given a higher priority when these arrangements are set up.

Companies currently advertise the range of payment options in a variety of ways. All companies send some form of payment option information on or with the initial bill. Some detail the full range in a separate leaflet which customers can request, or

which they send to those who have fallen into debt, along with reminders or other correspondence. Clear and readily available information about various payment options will make it easier for customers to access the method best suited to their circumstances.

Expectations

To meet this principle Ofwat would generally expect companies to:

1. Review their network of payment locations at least once every two years to ensure that all customers have reasonable access to the network. They will need to take account of the number and geographical distribution of locations and the demographic and social profile of their region. The network of available locations at which the customer can pay must accommodate both rural and urban customers.
2. Review the charges, if any, for making payments at the network of locations offered and offer a reasonable range of locations at which customers can make payments free of charge. This should include frequent payments, in cash, for customers who prefer to pay weekly or fortnightly.
3. Allow measured and unmeasured customers to pay at least at the following frequencies:
 - annual/half yearly/quarterly as appropriate on receipt of the bill,
 - monthly,
 - fortnightly/weekly.
4. Offer instalment payments by at least the following methods:
 - cheque,
 - cash, and
 - direct debit.

Companies should, where possible, be flexible about the date on which direct debits or standing orders are taken.

5. Continue to offer customers who are in debt and in receipt of eligible benefits the option to make direct payments.
6. Advertise the available payment options on or with the initial bill so that the customer can choose the option which best suits his circumstances. Companies should also take advantage of further opportunities to draw customers' attention to the range of options available. They should flag options again in further correspondence sent to customers in debt, either in the text of letters or enclosing a separate leaflet. Where companies become aware that a different instalment option may suit a customer better than the one they currently use, they should proactively offer the option.

PRINCIPLE 3:

Literature and letters or notices sent to customers should be written in a non-threatening style but should clearly set out the action which the water company will take if the customer fails to make payment or contact the company.

Current practice

Water companies use standard letters and notices to advise customers that they have missed an instalment or failed to pay their bill. Notices set out what action the company will take if the customer does not pay within a specified time, and invite the customer to contact the company. They can also detail what the consequences of such action might be for the customer (for example a Court Judgement may damage the customer's credit rating for a number of years).

All companies are required to have a code of practice, approved by Ofwat, available to customers. It sets out how the company deals with customers who fall into debt. Some companies produce their code in the form of a customer friendly leaflet which can be used to advise customers of their options.

Standard letters are usually available for each stage of the process. Some companies have developed a suite of letters or notices applying only to domestic customers; others have letters which can apply to either domestic or commercial customers and cover the action which could be taken against each group.

Water companies make literature and correspondence available to customers in formats which they are able to use. Companies are usually able to offer customers with sight impairments large print or Braille bills where appropriate so that they are able to read their bills and notices. This is in line with our guidance to companies on services to customers with disabilities¹. Some companies have systems in place to ensure that customers who do not speak English can communicate with the company.

Expectations

Ofwat will generally expect companies to meet this principle in the following ways:

1. Letters and reminders to customers who have fallen behind with payment should be clear about what will happen if the customer does not pay. To be constructive, it is also important that they encourage the customer to contact the company and if necessary to seek expert advice.
2. Letters and literature should be written in plain language. Companies should consider the appropriate format for customers with special needs.

¹ Services for Disabled or Elderly Customers -Guidance To Companies (March 2001) available from Ofwat Library

3. Companies will not threaten to disconnect a domestic property for non-payment, as disconnection is no longer legal. There should be no implication of action which the company could not take in relation to that customer. (For example, it would be easy for a household customer to infer incorrectly that he might be disconnected from a common notice sent to commercial and domestic properties which stated that “you may be taken to court or have your supply disconnected”.) Particular care is needed when dealing with mixed-use premises to ensure that customers’ rights are respected.
4. The customer should be given a clear indication of the length of time he has in which to act.
5. If the customer is at risk of being subject to post-judgement court proceedings, the company should explain them simply and fully. Many companies are now using post-judgement proceedings or orders such as garnishee orders, charges on property, oral examination in court and attachment of earnings (see appendix A for details of these procedures). Some customers may not understand the meaning of these terms and need a simple explanation of the process and consequences of the action the company proposes to instigate. They may not be aware that court action could jeopardise their credit rating in the future or that some actions may involve contacting their employer.
6. If notices or letters themselves do not list the customer’s options for payment arrangements, they should be accompanied by literature which does, or should clearly detail where the customer can obtain this information.
7. Companies should give the relevant WaterVoice committee an opportunity to comment on the design and text of any new debt recovery literature, and on substantive changes to current documents.
8. Companies should ensure that their debt code approved by Ofwat is kept up to date, which may require approval more frequently than the maximum three-year interval.

PRINCIPLE 4

When agreeing payment arrangements with customers in debt, the customer's ability to pay should be taken into account.

Current practice

A payment arrangement which takes account of the customer's ability to pay is more likely to be effective in securing regular payments than one which aims to recover more money more quickly through instalments which are unsustainable. Companies report that customers can be inclined to agree to payments set higher than they can reasonably afford, believing that this is more likely to satisfy the company.

When estimating the customer's ability to pay, it is important that all the customer's circumstances are looked at where possible - not just their income. Companies advise that many customers who are in debt to the water company will also be in debt to other utilities and third parties. The level of a customer's commitments to other creditors will affect their ability to pay the water company.

We recognise that finances are a personal issue and that some customers will not wish to reveal their circumstances to water company staff. However, it is important that companies make an attempt to take account of the customer's ability to pay. This could be through a telephone enquiry, if contact has been made by telephone, or an invitation in correspondence to talk through how much the customer can afford. Companies need trained staff to make these enquiries appropriately.

Water companies often set up payment arrangements to cover current charges and work towards reducing the debt. It is not always possible to eliminate within one year the debt of someone who has had payment difficulties for some time. In these circumstances the company may take a long-term view in the light of the customer's ability to pay. The level at which direct payments from benefit are being set can be a useful guide to setting an appropriate payment arrangement for some customers.

One of the aims of a payment arrangement is to enable the customer to establish the habit of making regular payments. Some companies have set up incentive schemes which enable the customer to get into the habit of making regular payments. These generally involve arrangements whereby the company will either match payments made by the customer or discount part of the debt if agreed regular payments are maintained.

When a number of instalments have been missed, many companies cancel the payment arrangement and take action to recover the full amount due. This may not always be the best approach, for example customers on benefits could be encouraged to agree to direct deductions from benefits.

Where the customer has multiple debts companies can advise that it may benefit the customer to talk through their situation and review their payment obligations with a debt counsellor. A number of companies have established links with local Citizens Advice Bureaux and Money Advice Centres and will refer customers who appear to be in multiple debt to them for advice. Some have set up arrangements to subsidise

these local offices and will communicate with them about the level of a customer's payment arrangement. They will also accept recommendations on the level of instalment plan payments.

Where the customer is clearly unable to pay, a referral to a charitable trust may help if one is available.

Expectations

To meet this principle companies will generally be expected to:

1. Make reasonable enquiries as to the customer's ability to pay when setting up instalment arrangements and take account of the information given. Their records should confirm that this was done. Repayment levels should be realistic and sustainable given the customer's circumstances, and action taken when instalments are missed should be appropriate. Companies are not expected to provide financial advice.

Tell the customer, where it appears relevant, that he or she may be able to reduce their future charges either by switching to a water meter, applying for the vulnerable group tariff or implementing some water efficiency measures. It should offer information about this.

2. Where possible an agreed instalment plan should aim to ensure that the customer pays off the current year's charges before the next year's bill is received, and pays something towards the accrued debt. Companies may need to take a long-term view of the period over which customers can clear their debt, based on their knowledge of the customer's circumstances. Where possible they should try to avoid allowing the debt to increase unless they are convinced that in the customer's situation it is appropriate to accept any small amount in order to encourage a payment habit.
3. Accept any realistic offer of payment made by a customer. The level at which direct payments from benefit are being set can be a useful guide to setting an appropriate payment arrangement for some customers. However, in cases where the customer has multiple debts, liaison with or referring customers to local advice agencies can be useful.
4. Establish and maintain good relationships with local advice agencies and recommend customers consult these agencies where appropriate.
5. Where a charitable trust or a restart scheme is in place, companies should, where appropriate, tell customers about them or refer customers to a relevant contact. Companies which do not have such schemes should consider the value of establishing them independently or jointly with other companies or utilities.

PRINCIPLE 5

Customers whose accounts are managed by debt recovery agents should receive a similar level of service and care to those whose accounts remain with the water company.

Current practice

It is common practice for some companies to refer the accounts of indebted customers to debt collection agencies. From this point on (which may be before or after court action is taken) the customer is unlikely to have direct contact with the water company, but will deal instead with the agency. Agencies usually work on a commission basis and it is in their interests to arrange payment instalments which the customer can maintain. Some debt collection agencies offer doorstep collection services to encourage customers to make the agreed payments. The agent, rather than the water company, will now send out literature and correspondence.

Debt collection agents work under a service agreement governing the level of service customers will receive and setting out the agent's relationship with the water company. Reputable companies will operate under a code of practice such as that approved by the Credit Services Association. (This document can be found on the Association's website).

The level of access the company retains to records of contact with customers and their accounts will vary according to the service agreement between the company and the agent. Good practice allows the water company to monitor the handling of its customers' accounts and to know what payment arrangements have been made. In these circumstances companies and WaterVoice committees can audit individual cases handled by the debt collection agents.

Expectations

To meet this principle companies who use debt collection agents are generally expected to:

1. Ensure that they engage a reputable company abiding by an industry code of practice such as that of the Credit Services Association. The agent should be aware of the water company's own Code of Practice on debt recovery and should abide by it.
2. Be able to verify that their customers are sensitively dealt with through a robust audit process. This may include regular reports from the agent on the progress of customers' accounts and payments. To satisfy themselves that their customers are receiving the appropriate level of service, water companies are expected to hold copies of standard correspondence and literature sent by debt collection agents and ensure that these conform to the standards expected of the water companies themselves.

3. Ensure that customers whose accounts have been passed to debt collection agents do not find themselves in a position where it is harder to agree payments than if they were dealing direct with the water company.
4. Retain access to the management of the customer's account, should the need arise, as the debtor remains the customer of the water company. When operating best practice water companies will be able to obtain access to the customer's account and details such as the amount which a customer has agreed/been asked to pay, should they be approached directly by the customer or by third parties acting on behalf of the customer, such as debt advisers. Effective communication systems should be in place to share information regarding payments made or other activity on the account when necessary.
5. Ensure that customers who are unhappy with the way the agent has dealt with them are able to raise their concerns with the water company.
6. In some cases it may be appropriate to treat a customer's current charges separately from debt: the company may wish to agree payment terms for the current bill direct with the customers while leaving the collection of debt in the hands of the agent.
7. Show the WaterVoice committee that customers whose accounts have been placed with agents are not receiving a poorer service than customers whose accounts remain with the water company. WaterVoice committees will also wish to confirm that companies have effective quality control arrangements in place. At audits it is desirable for WaterVoice to have access to the agent and their documentation, including copies of standard literature, and where possible the option to meet the agent, visit the agent's premises or look at individual cases as part of their regular assessments of companies' debt recovery operations. The code of practice under which the agent operates and the service agreement or equivalent document should also be made available.

COURT PROCEDURES USED BY WATER COMPANIES TO ENFORCE PAYMENT AFTER JUDGEMENT HAS BEEN ENTERED

Warrant of execution

The bailiff of the court may be ordered to seize property to the value of the amount owed by the customer to satisfy the debt.

Third Party Debt Order

The court may order funds to be deducted directly from the customer's bank account to settle the debt.

Charge on property

If the customer owns his own home the court may order that the debt is settled when the property is sold. Once a charge on the property has been awarded the creditor can ask for the property to be sold.

Order to obtain information in court

The customer may be ordered to attend court to give details of his finances.

Attachment of earnings

The court may order that the customer's employer deducts an amount each week or month from the customer's earnings to settle the debt.

Bankruptcy

For debt in excess of a specified amount, a creditor may apply for a debtor to made bankrupt.

High court sheriffs

For debt in excess of a specified amount, debts may be transferred to high court sheriffs for enforcement.

**RESPONSES TO DEBT RECOVERY GUIDELINES CONSULTATION
JANUARY 2002**

Other Government Departments

Local Government Association
Welsh Assembly Government

WaterVoice committees (formerly Customer Service Committee)

WaterVoice Central
WaterVoice Eastern
WaterVoice North West
WaterVoice Northumbria
WaterVoice South West
WaterVoice Southern
WaterVoice Thames
WaterVoice Wales
WaterVoice Wessex
WaterVoice Yorkshire

Water and sewerage companies

Anglian Water Services Ltd
Dŵr Cymru (Welsh Water)
Northumbrian Water Ltd
Severn Trent Water Ltd
South West Water Ltd
Southern Water
Thames Water Utilities Ltd
United Utilities Water Plc
Wessex Water
Yorkshire Water Services Ltd

Water only companies

Bournemouth and West Hampshire Water Plc
Bristol Water Plc
Dee Valley Water Plc
Folkestone and Dover Water Services Ltd
Mid Kent Water Plc
Portsmouth Water Plc
South Staffordshire Water Plc
Three Valleys Water Plc

Reporters

Halcrow Management Sciences Ltd

Consumer Organisations

Federation of Information and Advice Centres
MENCAP

North Regional Money Advice Support Unit

Public Utilities Access Forum

Royal National Institute for the Blind

Sheffield Citizens Advice Bureaux Debt Support Unit

The Royal Society for the Promotion of Health

Welsh Consumer Council

Unions

Unison

Others

Centrica

Peter Lehmann

Linkwork Limited (Barry Walton)

Sherwoods (Debt Recovery Division of Burchell & Ruston, Law Firm)