

Ofcom's call for inputs: review of measures to protect people in debt or at risk of disconnection

Citizens Advice submission

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Summary

Citizens Advice sees first-hand how a provider's approach to debt and disconnection affects customers who are at risk of disadvantage or detriment. While a flexible and tailored approach can help a customer in debt get back on track, unfair or unsympathetic provider policies can exacerbate existing debts and create new problems for consumers.

We welcome Ofcom's continued focus on making sure consumers are treated fairly, and it is positive to see instances where providers have followed the existing guidance in implementing supportive processes for their customers. But Ofcom's call for inputs highlights variation in provider practice that creates a lottery of treatment for consumers. There are widespread instances of providers falling short of the guidance, and no area of the guidance in which compliance is universal. Citizens Advice data shows the real-life detriment this causes to people who are already at risk.

Citizens Advice agrees with Ofcom's assessment that amendments to the guidance could clarify providers' responsibilities. As such, we will set out our support for Ofcom's proposed changes as part of this response - specifically around identification and engagement of customers in debt, links to advice organisations, and measures taken by providers both to effect payment and support customers.

However, increased specificity on how providers are expected to behave should be matched by increased clarity on the consequences for providers who fail to meet these expectations. Ofcom must be willing to take enforcement action where providers treat customers unfairly, and if necessary should consider changes to the General Conditions to allow it to do so.

1. Citizens Advice's debt work

- 1.1. At Citizens Advice, debt is a key driver of our caseload. In 2020 we helped 258,000 people with debt problems. No one sees so many people with so many different problems, which gives us a unique insight into the impact of poor debt policies in regulated sectors.
- 1.2. Ofcom's call for inputs draws attention to disparities in the approaches taken by different telecoms providers when customers fall into debt. But there is less emphasis on the impact these differing policies can have on consumers at the greatest risk of disadvantage, detriment or harm.
- 1.3. We see first-hand how someone's life can be sent off track by something as simple as an inflexible approach from their telecoms provider. Our advisers encounter clients who are unable to afford food due to rigid repayment rules; whose debts are mounting because they are not allowed to switch to a cheaper tariff; or whose mental health conditions are exacerbated by the difficulty contacting their provider about their debt, or the threat of disconnection.
- 1.4. **The impact on consumers must be at the heart of any changes made in this sector.**
- 1.5. This response draws on evidence from advice sessions in local Citizens Advice offices with clients who have come to us with issues related to telecoms debt. We reviewed a random sample of 65% (60/93) of the telecoms debt cases between 31 August 2020 - 1 September 2021.
- 1.6. Almost a quarter (23%) of clients mentioned issues with debt repayment plans during their sessions, while 15% said they believed they had wrongly continued to incur debts after cancelling a plan. Around 5% said they had experienced disconnection or service restriction.

1.7. And the sessions found various instances where clients would have benefitted from their providers following clearer and more consistent guidelines:

- 7% of clients said during their sessions they were struggling to manage their accounts because of difficulties contacting their telecoms provider or accessing documents.
- And in a further 7% of cases, advisers said they had struggled to contact providers on behalf of their clients.
- In 5% of cases, clients said their providers had failed to offer them flexibility when they asked to switch tariff or cancel their contract in order to manage their debt.

2. Ofcom's approach to guidance and regulation

- 2.1. Ofcom's guide on treating customers fairly suggests actions that telecoms providers can, and should, take to protect their customers. If adhered to, this guidance helps providers ensure they are fulfilling their obligations under the General Conditions to treat customers fairly.
- 2.2. Yet Ofcom acknowledges that "the extent of variation in provider practices could cause some consumers to receive less support than others depending on which provider they are with, or the type of service that they take".¹ And Ofcom has uncovered widespread practices that fall short of the recommendations in the guidance. This means that **consumers currently face a lottery on the support and protection provided when they fall behind on a bill.**
- 2.3. Our own research highlights the effects on consumers of some of the practices Ofcom has cited. These unfair practices have real-life, harmful consequences. We saw effects including:
 - Negative impacts on clients' mental health due to the threat of disconnection or being passed to a debt collection agency
 - Clients being unable to contact creditors or support agencies due to service restrictions
 - Clients being trapped on unaffordable payment plans or forced to pay lump sums towards their debt, compromising their other expenses
 - Clients facing frustrating delays to the resolution of their cases due to rigid or unresponsive communication processes
- 2.4. The guide to treating customers fairly allows for Ofcom to set out in more detail how providers can meet their obligations to consumers. **We support Ofcom's proposals to amend the guide and add greater**

¹ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, p4

detail on actions providers can and should take. We will expand on this position throughout this response.

- 2.5. But the guide is not synonymous with regulation. Its positive purpose is clear: it provides a framework which, if followed, helps providers ensure that they are meeting their obligations to treat customers fairly.
- 2.6. Yet the consequences for choosing not to follow the guide are unclear. It is not made explicit whether deviation from the guide constitutes a breach of fairness requirements under the General Conditions. This has meant **the relationship between the guide and enforcement action is ambiguous.**
- 2.7. We first raised these concerns in response to Ofcom's initial consultation on the guide, pointing out that "it is not clear to what extent providers are required to follow the guidance".² We asked for the guidance to be updated to include rules on preventing the harm telecoms customers experience within the sector - or at a minimum, set out how General Condition C5 would be enforced on the basis of the guide where outcomes for at-risk customers fell short.
- 2.8. Ofcom's call for inputs indicates some encouraging instances of good practice and close adherence to the guide. Yet there are also instances of providers failing to follow guidance, and it appears that few providers follow most or all of the provisions relating to debt and disconnection. And crucially, providers that fail to follow this guidance don't appear to have faced consequences such as enforcement action.
- 2.9. Increased specificity to the guide can only be a positive, helping firms better understand how to meet their obligations. But increased specificity cannot be the only tool in the armoury against unfair treatment of consumers. If providers already choose not to follow aspects of the guide, it is unclear that more specificity will convince them to begin doing so.

² Citizens Advice, [Protecting vulnerable consumers in the telecoms sector - Citizens Advice response to Ofcom's proposed guide for treating vulnerable consumers fairly](#), November 2019, p7

- 2.10. Ofcom is right to consolidate and expand the positive incentives of the guide, making it easy for firms to do the right thing and treat their customers fairly. But this must be supported by corresponding enforcement action when providers are unwilling to meet their obligations.
- 2.11. **Ofcom must therefore provide greater clarity on the relationship between the guide and regulation under the General Conditions. Where providers continue to treat customers unfairly in spite of the guidance, Ofcom should set out regulatory consequences.**
- 2.12. Under General Condition C5.2, providers must “establish, publish and comply with clear and effective policies and procedures for the fair and appropriate treatment of Consumers whose circumstances may make them vulnerable”.³ If Ofcom takes the view that provider behaviours which clearly breach its guidance are unfair to consumers, then it must be willing to take action in line with the General Conditions.
- 2.13. **If the General Conditions don’t currently allow for enforcement action against this kind of unfair behaviour, then Ofcom should consider amendments to the Conditions themselves, rather than the guidance alone.**
- 2.14. This would follow precedence from the energy sector, where regulator Ofgem brought ‘Ability to Pay’ principles into the supplier licence conditions in 2020. These require suppliers to give due consideration to certain principles when assessing customers’ ability to pay against their debt repayments.
- 2.15. Ofgem made the choice to bring the principles into licence conditions “to give these principles further prominence, ensure consistency across the market, and emphasise the need for targeted support to consumers facing payment difficulties”.⁴

³ Ofcom, [General Conditions of Entitlement](#), 4 January 2021, C5.2

⁴ Ofgem, [Self-disconnection and self-rationing: decision](#), 19 October 2020, para 4.5

3. Identification, engagement, and communication with consumers in debt or struggling to pay

Question 1: Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

- 3.1. Ofcom reports that “some providers told us they adjust their communications approach to customers who they have identified as vulnerable”.⁵ It is positive to see firms adapting their processes to customers flagged as being at greater risk, and any providers that don’t currently have adapted processes for these customers should develop these.
- 3.2. However, even where firms do have processes in place for customers who need more support, customers only have access to these adapted communications if they have already been identified as at risk of disadvantage, detriment or harm. Though “some providers try to identify customers that are financially vulnerable before they go into debt”,⁶ it is likely that many customers are still falling through the cracks due to the widespread underreporting of vulnerability in the telecoms sector.
- 3.3. Ofcom’s pricing review indicates that just over 1% of broadband customers are flagged as vulnerable, and recorded as being disabled or having a mental health problem.⁷ Yet in the most recent Government Family Resources Survey, 22% of people (including 19% of working-age

⁵ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 4.14

⁶ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 4.12

⁷ Ofcom, [Helping consumers get better deals: Review of pricing practices in fixed broadband](#), 28 July 2020, para 3.32

adults) reported having a disability,⁸ defined as “a physical or mental impairment that has ‘substantial’ and ‘long term’ negative effects on their ability to do normal daily activities”. While disability should not be directly conflated with vulnerability, the extreme disparity of these figures suggests a gap in awareness of who is at risk of harm.

- 3.4. In our total sample of cases, 46% of clients with telecoms debts reported being disabled or having a long-term health condition. And among the cases we analysed, clients also frequently reported being on low incomes or in receipt of benefits, or struggling with life events such as a job loss or leaving an abusive domestic relationship.



Ellen⁹ is disabled and on a low income, and has built up around £400 of debt with her broadband provider despite asking multiple times for her £200/mth package to be reduced. She says she has informed her provider that she is disabled, but the provider says it has no record of this and insists that she pay £180 to post back her gadgets in order to leave her contract.

- 3.5. Despite acknowledgement in the guide that “customers who are in arrears are likely to be vulnerable”,¹⁰ the onus is currently on the customer to inform their provider that they are facing disadvantage or harm. And even where customers do attempt to ask for additional support, providers are not always responsive.
- 3.6. We believe that the burden of proof should be shifted from the at-risk customer to the provider. In particular, providers should not initiate recovery processes until they have taken reasonable steps to establish whether a customer is at risk of detriment.

⁸ Department for Work & Pensions, [Family Resources Survey: financial year 2019 to 2020](#), 25 March 2021

⁹ All names used in this response are fictional to protect clients’ anonymity.

¹⁰ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 2.5

- 3.7. Once a provider has identified that a customer is facing disadvantage or harm, it should adapt its communication processes and endeavour to offer the customer more flexibility and support.
- 3.8. **Citizens Advice supports Ofcom’s proposal that providers should improve how they identify and offer support to customers who are at greatest risk of harm.**
- 3.9. **We recommend that providers should by default assume that customers in arrears are likely to be at risk of harm, and adapt their approach accordingly.**
- 3.10. Ofcom already recommends that providers offer a range of communication channels for customers to get in touch with them, but notes variation in the range of methods provided. Citizens Advice shares Ofcom’s concerns that not all providers accept letters, which are important for those who are digitally excluded or lack confidence using other channels.
- 3.11. We analysed multiple cases where customers said they had struggled to contact their provider due to difficulties accessing the channels offered.



Derek needed to contact his telecoms provider about his debt. Unfortunately, the telecoms provider has stopped taking telephone calls and instead offers webchat or email. Derek is not IT literate. The telecoms provider does not answer emails for weeks at a time, making Derek's debt issues harder to resolve.

- 3.12. **Citizens Advice therefore supports Ofcom’s recommendation that providers adopt best practice around communication channels more systematically.**
- 3.13. Citizens Advice agrees with Ofcom’s assessment that providers will be more likely to elicit responses from customers in arrears if their communications emphasise available support rather than focusing solely

on the consequences of non-repayment.

- 3.14. We would add that providers are more likely to elicit positive results if they offer proactive support to these customers, rather than putting the call to action onto the customer.
- 3.15. **Ofcom should encourage providers to take part in Randomised Control Trials (RCTs) to test the effectiveness of messaging to consumers. This would help firms establish how best to communicate with customers who are struggling to pay.**
- 3.16. Citizens Advice's industry guide on supporting customers with energy debt also has lessons which could be applicable to the telecoms sector. A key principle is "proactive communications with a supportive tone":¹¹ communications should be easy to understand, non-judgmental in tone and equip the customer with what they need to access support.
- 3.17. And Citizens Advice's energy hack day provides an example of sector collaboration to design better debt and complaints letters for customers. This brought together 45 industry experts for a day of talks and exercises, where attendees were tasked with designing different types of customer letters related to debt and complaints.
- 3.18. Learnings included using plain and simple language, avoiding jargon and testing new content with customers. And 96% of attendees said they would be likely to change something in their organisation as a result of the day.¹²

¹¹ Citizens Advice, [Supporting people in energy debt: Good practice guide for energy and heat network providers](#), p4

¹² Rachel Mills, [What we learned from our first energy hack day](#), 14 October 2019

4. Strengthening links with organisations and charities that can provide free debt advice and support

***Question 2:** Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.*

- 4.1. As Ofcom notes in its call for inputs, people in arrears or struggling with debt are likely to benefit from debt advice. In 2020, 86% of Citizens Advice debt clients said we helped them find a way forward. 46% reported an improvement in their mental health.¹³
- 4.2. It is positive that Ofcom finds that most providers signpost to debt organisations on their website. But it's vital that signposting takes place consistently across providers and in different types of communication.
- 4.3. **We therefore support Ofcom's recommendation that signposting to debt advice should happen in all payment and collection-related communications to customers.**
- 4.4. While some providers have dedicated communications routes to make sure debt advice organisations can contact their collections teams directly, this is not universal.
- 4.5. In a number of the cases we analysed, advisers had difficulties contacting a telecoms company on behalf of their client. In these cases, representatives of the firms refused to speak to Citizens Advice advisors despite them having authority to act on behalf of their clients.
- 4.6. In one instance, a provider insisted on the client being physically present with the adviser despite this being in breach of coronavirus restrictions at the time. In another, representatives said they required a direct phone call

¹³ Citizens Advice, [Delivering debt advice during a pandemic: Debt impact report 2020/21](#), p2

from the client, who was unable to speak English. This caused delays to the resolution of the cases - creating extra distress for the clients as well as additional work for advisers.

- 4.7. **We therefore support the recommendation that greater prominence should be given to the importance of making it easy for debt advice agencies to contact providers on behalf of their clients.** This should include being able to speak to providers' collections teams directly, rather than going through customer service lines.

5. Measures taken by providers to effect payment

Question 3: *Do you agree that there should be more consistency in the way in which providers seek to effect payment from customers in debt? If so, how do you believe this could be achieved most effectively? Please provide evidence supporting your views, including any research you have conducted or have access to.*

- 5.1. Disconnection is the area that can cause the most significant detriment to consumers. We agree with Ofcom's assertion that disconnection should be used only as a "last resort".
- 5.2. Being disconnected from their telecoms service or having service restrictions imposed can have serious repercussions for consumers. This can include being cut off from support networks and being left unable to communicate with other essential service providers.¹⁴ It can also affect people's ability to manage other debts.
- 5.3. While we agree that phased service restrictions are preferable to a complete suspension, providers should recognise that even partial service restrictions can have serious impacts on people who are already facing disadvantage or harm.
- 5.4. Our analysis of advice sessions showed cases where clients felt pressured into paying unmanageable lump sums to telecoms providers in order to reinstate their full service, which could compromise their ability to pay other debts and expenses.

¹⁴ Citizens Advice, [Protecting vulnerable consumers in the telecoms sector - Citizens Advice response to Ofcom's proposed guide for treating vulnerable consumers fairly](#), November 2019, p4



Emma was left unemployed and homeless after fleeing domestic abuse, and has multiple mental health conditions. She had almost £5,000 in debt to different services when she came to Citizens Advice, and her mobile phone provider had blocked her from making calls until she made a payment. Emma needed to phone her other creditors to agree debt repayment plans, so she was forced to make an £80 lump sum payment to her mobile provider to access outgoing calls. This left her unable to afford food.

- 5.5. It is important that service providers take a flexible approach to ensure customers can access their service if they are engaging with their provider to try to pay their debt.
- 5.6. **Citizens Advice agrees that there should be more consistency in the ways providers seek to effect payments from customers in debt, particularly in their use of disconnection and service restriction. And as such, we believe that Ofcom should revise General Condition 3.12 to ensure providers take a consistent approach to publishing information about the measures they take to effect payment.**
- 5.7. Ofcom's call for inputs states that "providers generally use disconnection as a last resort", in line with guidance. But Citizens Advice remains concerned at Ofcom's finding that "many providers are moving more quickly to disconnection than the 3 months set out as an example in our November 2020 letter",¹⁵ despite the potential for consumer harm in this area.
- 5.8. All the cases we analysed involving disconnection or service restriction took place in 2021, and all involved consumers who could be classed as experiencing disadvantage or detriment. Yet we saw instances of provider behaviour which had the potential to exacerbate harm to the consumer. This included:

¹⁵ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 4.4

- Imposing service restrictions despite engagement from the customer about their difficulties paying. This is contrary to guidance in Ofcom’s November 2020 letter that “where a customer is actively engaging and seeking support, providers should not impose any service restrictions”.¹⁶
- Refusing to allow a customer to switch tariff without incurring a termination fee. This is contrary to existing guidance that “providers could consider waiving early termination charges if a customer does switch tariff due to their debt”.¹⁷

- 5.9. We also saw examples of providers refusing to implement manageable repayment plans to help the customer reconnect their service. Instead, providers insisted that the customer had to make a large lump sum payment to reinstate calls, or could only reconnect their account once the debt was paid off in full.
- 5.10. Alongside requirements to treat customers fairly, General Condition C3.11 requires that measures providers take to effect payment or disconnection “are proportionate and not unduly discriminatory”.¹⁸
- 5.11. **Citizens Advice supports Ofcom’s proposed amendments to encourage providers to take a consistent and fair approach when seeking to effect payment from customers, including avoiding disconnections for at-risk customers and preserving access to free helplines during service restrictions.**
- 5.12. But as many providers have already failed to follow the specific 3 month timeline set out by Ofcom’s November 2020 letter, it seems unlikely that adding more specificity to the guidance will be enough to improve practices.

¹⁶ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 2.6

¹⁷ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 4.33

¹⁸ Ofcom, [General Conditions of Entitlement](#), 4 January 2021, C3.11

- 5.13. Instead, suggestion should be replaced with enforcement in situations where consumer detriment is ongoing. By continuing to disconnect customers before the period specified by Ofcom, or in spite of customers' risk of harm and engagement with their debts, some providers are demonstrably acting unfairly to their most at-risk customers.
- 5.14. **If Ofcom accepts that these practices contravene the General Conditions on fairness, it must be willing to take enforcement action against firms which break the rules. If the General Conditions don't currently allow for enforcement action in these scenarios, they must be strengthened. This should include requiring providers to take all reasonable steps to find out if a customer is facing disadvantage or detriment before taking steps to disconnect or recover payment.**

6. Measures designed by providers to support consumers who are in debt or struggling to pay

Question 4: *Do you agree that we should amend the guide regarding the provision of information about measures to support customers? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.*

- 6.1. Ofcom refers to the need to strike a balance between allowing companies to recover money owed, and protecting vulnerable consumers. While we recognise the need for companies to recover money, we believe this goal is not in tension with its duties to customers.
- 6.2. Supportive measures can help people get back on track and return to making regular payments. In the long run, this results in higher levels of collection for the telecoms firm, as well as improved outcomes for the consumer.
- 6.3. For example, the Cabinet Office’s call for evidence into fairness in government debt management acknowledges that “research has shown that a debt recovery process that incorporates access to tailored debt advice, additional support and affordable repayment plans, increases returns to creditors by an average of £750 per person”.¹⁹
- 6.4. But Citizens Advice has seen examples of providers appearing unwilling to offer customers measures that would help them make more consistent payments, such as repayment plans or alternative tariffs. It’s important that providers take a flexible and understanding approach when customers are actively engaging and trying to pay their debts.

¹⁹ Cabinet Office, [Fairness in government debt management: a call for evidence](#), 29 June 2020, para 16



Grace's inbound and outbound calls were cut off by her provider until her bill was paid. She had told her provider she was struggling to meet monthly payments and asked to be moved to a pay-as-you-go contract, but she was told this was only possible if she paid an exit fee of up to £300. Grace was unable to phone anyone for further support with her arrears due to the service restrictions, and outbound calls redirected to an automated line with only 2 options - to make a payment or hang up.

- 6.5. It is positive that all the providers from whom Ofcom sought information appear to offer payment deferrals, and that all but one offer payment plans. It's important that the remaining provider also introduces a policy on payment plans.
- 6.6. However, promotion of the availability of this type of support is patchy. It's concerning that only a minority of providers are signposting to their payment plans and deferrals on customer-facing webpages. Ofcom points out that consumers are not confident in proactively asking for help when they are struggling with debt. It is therefore incumbent on telecoms firms to take action to promote available payment options, and ensure their customers are aware of solutions that could benefit them.
- 6.7. **Citizens Advice therefore supports Ofcom's proposal to recommend that providers always give information about support to consumers, including in outgoing debt or payment communications.**
- 6.8. As with its other recommendations, Ofcom notes that there is variation in the extent to which its guidance has been taken up in this area. The support available to those struggling with debt "varies by provider and by specific aspect of the guide, with some of our recommendations being adopted more widely than others".²⁰

²⁰ Ofcom, [Review of measures to protect people in debt or at risk of disconnection: Call for inputs](#), 22 July 2021, para 4.62

- 6.9. And our analysis of advisor sessions showed clients struggling after their provider failed to offer them flexibility in cancelling or switching to a cheaper tariff to help them manage their debt.



Niamh is a survivor of domestic abuse and currently lives in a women's refuge with her children. She owes over £100 for a mobile phone contract. Her provider refused to allow her to cancel the contract and the debt was passed on to an external debt collection agency, incurring interest.

- 6.10. As well as providing appropriate support to customers who have fallen into debt, providers should work to help people pay for telecoms services in a manageable and sustainable way that lowers levels of debt in the future.
- 6.11. Telecoms firms should do more to help people stay connected and out of problem debt by offering affordable social tariffs. These social tariffs should provide an adequate level of service, be proactively offered to consumers, and be accessible to all who would benefit.
- 6.12. Citizens Advice welcomes the social tariffs that are currently available to consumers. But as of June 2021, only 4 out of 14 providers contacted by Citizens Advice confirmed they offered a social tariff.²¹ The fact that many providers still don't take responsibility for providing an affordable service to lower income customers reveals the precarity of voluntary arrangements.
- 6.13. **If firms don't establish and promote a workable social tariff under the voluntary model, Ofcom should be willing to regulate telecoms firms to ensure they do so.**

²¹ Citizens Advice, [2.5 million people are behind on their broadband bills](#), 4 June 2021

Conclusion

Citizens Advice welcomes Ofcom's call for inputs into the fair treatment of telecoms customers, particularly those at greatest risk of disadvantage, detriment or harm.

And we support Ofcom's proposals to add further clarity and guidance for providers to help them support customers in debt and keep them connected to their service.

It is particularly important to acknowledge the importance of proactive communications and support for at-risk customers, and a "last resort" approach to disconnection. Ofcom's proposed amendments would help responsible providers offer a fair and supportive service to their customers, which is beneficial to both the provider and consumer.

But effectively protecting those at greatest risk of harm requires more than specific guidance. Ofcom has gathered a significant body of evidence demonstrating that some providers are ignoring current guidance, and Citizens Advice sees the harm this causes to people's lives.

Ofcom should act on the evidence it has produced to make sure its clear, specific guidance is supported by robust enforcement action when providers behave unfairly. Ofcom should strengthen the link between guidance and regulatory enforcement under the General Conditions - and, if necessary, should be prepared to amend the General Conditions to do so.

Treating customers fairly is not optional. These changes will help Ofcom make sure the fair treatment of customers, particularly those at risk of harm, is prioritised in every case.