The content

Debt Advice Handbook 15th edition

Description

With living costs and unemployment rising, budgets squeezed and problem debt on the increase, no adviser should be without this essential guide to the practice and process of giving money advice in England and Wales.

Who's this book for?
It is essential for debt advisers, welfare rights advisers, lawyers, local authority and housing association staff, social workers and union official.

What does it do?
The handbook provides the most comprehensive information needed by advisers on the key stages of money advice, including interviewing clients, establishing liability, prioritising debts, preparing a financial statement, negotiating with creditors and dealing with bailiffs. Fully indexed and cross-referenced to law, regulations and official guidance, and to court and tribunal decisions Includes tactical guidance and examples

What's new?
Fully updated to cover all recent changes to legislation, caselaw and court procedure and practice Emphasis is placed on taking due care of vulnerable clients and making sure that any payment arrangements agreed are appropriate. There is a focus on sustainable credit arrangements that do not affect a client's abilities to pay essential living expenses and priority debts.

Properties

Author(s):
CPAG

Print publication date
Feb, 2024

This content was last updated:
2025-06-26

Print ISBN
978 1 915324 11 5

2. Utilities and household debt

Child support payments

Child maintenance is a general term used to describe all types of financial support paid for children, including voluntary arrangements and payments under a court order. In this *Handbook*, child support refers to maintenance calculated and enforced under the statutory scheme.

The statutory scheme is run by the Child Maintenance Service (CMS), which is part of the DWP. Some clients may have historic arrears from a previous scheme run by the Child Support Agency (CSA). All CSA cases have now been closed and ongoing arrangements ended.

Parents needing ongoing child support are encouraged to make a 'family-based arrangement'. If a this is not possible, or the family-based arrangement fails, they can make an application to the CMS. From 26 February 2024, parents with care wishing to make a new application to the CMS no longer have to pay a £20 application fee.

The legal position

Section 1 of the Child Support Act 1991 provides that both parents have a duty to contribute to the costs of each 'qualifying child'. A child who does not live with both of their parents is a qualifying child if they are under 16, or aged between 16 and 19 and: [1]

- child benefit is payable; *or*
- they are in full-time, non-advanced education; *and*
- they are not married or in a civil partnership.

Where one parent lives in a different household (the non-resident parent) they are required to

make payments to the parent who has day-to-day care of the child (the parent with care).

---

1 ss3(1) and 55 CSA 1991

Special features

The CMS refers to non-resident parents as 'paying parents' and the parent with care as 'receiving parents'. Child support payments are assessed by the CMS and are based on a percentage of the paying parent's gross weekly income. The percentage depends on the number of children the paying parent is paying for. This includes each qualifying child plus any other child that the parent has a family-based arrangement for. The gross income figure used is reduced to take account of any 'relevant other children' – ie, children for whom the paying parent or their partner get child benefit.

An appeal to an independent First-tier Tribunal can be made if anything relating to the child support calculation is disputed. Full details of the calculation and the appeals process are in CPAG's *Child Support Handbook*. Get specialist advice if the client wants to appeal the assessment.

The CMS charges the paying parent a 20 per cent fee in addition to each assessed amount of child support payment and the receiving parent pays 4 per cent of the assessed amount. There are no collection fees if the parties agree arrangements for the paying parent to make payments directly to the receiving parent (Direct Pay). To encourage Direct Pay, the CMS can advise about setting up a non-geographical bank account which has a central sort code and so does not give any information about the area in which the parent lives.

There are no set rules on how quickly child support arrears should be paid, although the CMS aims to clear arrears within a maximum of two years, at a rate of up to 40 per cent of the paying parent's income. However, enforcement officers have the discretion to extend this period in appropriate cases. All decisions relating to the collection and enforcement of child support are discretionary and the welfare of any child affected must be taken into account. This includes if the paying parent has a child in a new relationship. A client experiencing hardship should contact the CMS with full details of their circumstances, including how the collection rate impacts their ability to keep contact with their children. There is no right of appeal against a discretionary decision. However, a complaint can be made if the parent feels that they have been treated unfairly or there have been unacceptable delays or other maladministration. It can be helpful to get the client's MP involved. Complaints can be escalated to the Independent Case Examiner or the Parliamentary and Health Service Ombudsman.

If child support is being paid through the collection service, the CMS can consider taking enforcement action as soon as a payment is missed. If child support is being paid directly between the parents, the receiving parent should notify the CMS if a payment is missed. Otherwise, the CMS will not be aware of this. If the CMS decides to take enforcement action, it will also start managing ongoing payments through its collection service (and charge collection fees).

To avoid enforcement action, the paying parent should contact the CMS as soon as a payment is missed to explain why and make arrangements to pay. The first step in enforcement is usually to make either a deduction from earnings order or, if this is not appropriate (eg, if the paying parent is not employed or is self-employed), an order to take money from a bank account. A court order is not required. There is a right of appeal to the county court in England and Wales against a decision to make deductions (regular or lump-sum) from a bank account. The appropriate form is the N161C appeal form; a fee is payable but remission rules apply. The court cannot question the maintenance assessment.

Other enforcement action (but not recovery of arrears from the estate of a deceased paying parent) currently requires a liability order from the magistrates' court. The court can make a liability order if it agrees that the payments specified are due from the paying parent and have not been made. Clients who disagree with the amount demanded (eg, because they have made payments) should attend the hearing and give evidence. The court cannot question the child support calculation itself. However, if there is an outstanding appeal against an assessment, the client can ask for the liability order hearing to be adjourned.

The DWP intends to take the magistrates' court out of this part of the enforcement process. The Child Support (Enforcement) Act 2023 makes it possible for the CMS to issue its own 'administrative' liability orders rather than applying to the magistrates' court. Section 2 of the Act provides that where there are arrears and a deduction from earnings order is either 'inappropriate or ineffective', the CMS may make an administrative liability order. At the time of writing, there is no a commencement date for implementation.

Note: from 12 July 2006, the six-year limitation period (see here) on the CMS applying for a liability order was abolished.

If a liability order is made, it can be enforced by taking control of goods (see Chapter 14) or the county court can make a charging order (see here) or third-party debt order (see here). The CMS can also apply to the High Court for an order preventing the disposal of assets if the paying parent has disposed of, or is about to dispose of, assets to avoid paying child support.

If all other recovery methods have failed, the CMS can apply to the court to commit a person to prison for a maximum of six weeks (an option of last resort). An order for committal can only be made if there is a finding that the parent has the means to pay, but has 'wilfully refused or culpably neglected' to do so (see here). Before making a committal order, the magistrates must

consider whether it would be appropriate to disqualify them from driving or from holding or applying for a passport or other UK travel authorisation for up to two years instead.

The CMS is only likely to use this power in exceptional circumstances and only where arrears of over £1,000 remain outstanding. The CMS cannot seek both disqualification from holding a passport/driving licence and imprisonment.

The CMS can write off arrears if it considers that it would be unfair or inappropriate to enforce the liability and:

- the receiving parent has requested that it cease taking action on the arrears; *or*
- the receiving parent has died; *or*
- the paying parent died before 25 January 2010 and there is no further action that can be taken to recover the arrears from their estate; *or*
- the arrears accrued in respect of an 'interim maintenance assessment' made between 5 April 1993 and 18 April 1995; *or*
- it has advised the paying parent that the arrears have been permanently suspended and that no further action will be taken to recover them.

The CMS has the power to accept lump sum payments in full and final settlement of the arrears. [1] If an offer in full and final settlement is accepted, the paying parent has no further legal obligation to pay the rest of the arrears. The receiving parent has to agree. However, the CMS will investigate the offer before putting it to the receiving parent. If it thinks the paying parent can pay and there is a reasonable chance of getting back all the arrears, the CMS will insist on them paying the full amount.

For full information about the child support scheme, including arrears and enforcement, see CPAG's *Child Support Handbook* (see Appendix 2).

---

1 s32 Child Maintenance and Other Payments Act 2008

Checklist for action

Advisers should take the following action.

- Consider whether emergency action is necessary (see Chapter 8).
- Check liability.
- Assist the client to choose a strategy from Chapter 8 because **this is a priority debt.**

Gas and electricity charges

Gas and electricity suppliers charge in a number of ways. Common payment methods include prepayment meters, quarterly accounts, direct debit and online schemes. Clients have a choice of supplier, although a supplier to whom arrears are owed can object to a transfer in certain circumstances. Ofgem regulates the industry. Suppliers must have codes of practice on the payment of bills and disconnection, including guidance for customers who have difficulty paying. You should obtain copies of the codes of practice of your clients' suppliers.

Suppliers are required to consider clients ability to pay when recovering debts. Measures in place since 15 December 2020 to support clients with prepayment meters and people with fuel debt mean that suppliers are expected to: [1]

- offer emergency credit to clients struggling to top up pre-payment meters;
- offer clients 'friendly-hours credit' provided overnight, at weekends and on public holidays when their meters have run out or are running low;
- offer extra prepayment credit to clients in vulnerable circumstances to give them time to make alternative arrangements to pay;
- ensure they put clients in debt on realistic and sustainable repayment plans, including making proactive contact with clients and setting repayment rates based on ability to pay.

See CPAG's *Fuel Rights Handbook* for more information. It is available free at cpag.org.uk/handbooks.

---

1 Condition 27A SLC

The legal position

Electricity

A person is liable to pay an electricity bill if:

- they have signed a contract for the supply of electricity; *or*

- no one else was liable for the bill or their liability has come to an end and they are the owner/occupier of premises which have been supplied with electricity (known as a 'deemed contract').

A person is not liable to pay an electricity bill if:

- they have not a made a contract with a supplier; *and*
- someone else is liable to pay the bill and their liability has not come to an end.

A person is no longer liable to pay an electricity bill under an actual or deemed contract if:

- they have terminated any contract in accordance with its terms (but they are still liable if they continue to be supplied with electricity); *or*
- they cease to be the owner/occupier of the property, starting from the day they leave the property, provided they have given at least two days' notice of leaving; *or*
- they did not give notice before leaving the property, on the earliest of:
    - two working days after they actually gave notice of ceasing to be an owner/occupier; *or*
    - when someone else begins to own/occupy the property and takes a supply of electricity to those premises.

This means that if the fuel supply is in the sole name of the client's partner who has subsequently left the home, the client is not liable for any arrears up to that date. However, they could be liable for the cost of any fuel supplied after this date, regardless of whether their partner has terminated the contract.

Advise clients to arrange for a final reading of the meter before leaving the property, if possible. They should, at least, read the meter to be able to check their final bill.

Gas

A person is liable to pay a gas bill if:

- they have signed a contract for the supply of gas; *or*
- no one else was liable for the bill or their liability has come to an end, but they have continued to be supplied with gas (known as a 'deemed contract').

A person currently liable under an actual or deemed contract remains liable until:

- they terminate the contract in accordance with its terms (but if they still occupy the premises and continue to be supplied with gas, they remain liable to pay for the gas supplied); *or*
- they cease to occupy the premises, provided they have given at least two working days'

notice that they intended to leave; *or*

- if notice was not given before they left the premises, the earliest of:
    - 28 days after they informed the supplier that they had left the premises; *or*
    - the date when another person requires a supply of gas.

Advise clients to arrange for a final reading of the meter before leaving the property, if possible. They should, at least, read the meter to be able to check their final bill.

Special features of electricity and gas arrears

Fuel supplies may be disconnected if there are arrears, and this is likely therefore to be a priority debt (see Chapter 8). The prioritisation of the debt depends on the client's continued need for that fuel at their present address.

Note: a supplier cannot transfer a debt from a previous property to a new account and then disconnect that fuel supply for the previous debt. A supply can only be disconnected at the address to which the bill relates. [1]

It may be possible to reduce charges by changing supplier. If the arrears are at least 28 days old and are not in dispute, the old supplier can object to the transfer unless the arrears are paid. [2] This does not apply to clients with prepayment meters, provided the debt does not exceed £500 and the client agrees that the new supplier can collect the arrears through the meter. If the client has both gas and electricity from the same supplier, the figure is £500 per fuel. If the transfer goes ahead without objection, the arrears cannot be transferred to the new supplier.

A prepayment meter can only be fitted at the address to which the bill relates (unless the client requests otherwise).

Estimated bills

Estimated bills are a common way to accrue arrears. Many bills are based on estimated meter readings. Under their licence conditions, suppliers are only required to obtain actual meter readings once every two years. If the estimated reading is different to the actual reading, the client should read the meter themself and ask for this reading to be used in order to avoid either an overpayment or an underpayment which could lead to arrears. The name and address of the client, as well as the address to which fuel was supplied, should be noted from the bill.

If the bill is estimated and the estimated reading is higher than the actual reading, it is possible to reduce the amount owing. The bill will explain (often by means of an 'E' next to a reading) whether an estimated reading has been given. Clients can read their own meters and provide the supplier with their reading, and so should never be disconnected on the basis of an estimated bill. You should ask the client to read the meter and request an amended bill. The roll-out of smart

meters should, in theory, see the end of estimated billing as the meter sends consumption information to the supplier and allows accurate bills to be produced on a regular basis.

When a client pays by direct debit, suppliers estimate future usage (eg, over the winter) when setting the amount of a direct debit. [3] Suppliers should estimate based on the best and most current information available. You should, therefore, advise clients who pay by direct debit to regularly check their usage and provide accurate and up-to-date readings to suppliers where it appears a direct debit may have been set at an unreasonably high level.

Backbilling

When a supplier issues a bill, it can only seek to recover charges for energy consumed in the previous 12 months unless:

- it has previously issued a compliant bill and is chasing previously billed charges; *or*
- the client behaves in an 'obstructive or manifestly unreasonable way' – eg, by physically preventing access to the meter or by stealing fuel.

Ofgem has confirmed that it does not consider a client to be 'obstructive or manifestly unreasonable' when they do not supply a meter reading. If clients do not respond to requests for a meter reading, suppliers should take a meter reading themselves to avoid billing based on estimates. This means suppliers will have to put more effort into obtaining meter readings from their customers. [4]

Extra support

As energy prices are volatile and bills are high, Ofgem recognises many people will need extra support. It has published guidance to help front-line advisers. You can see the latest version at ofgem.gov.uk/publications/energy-domestic-consumer-advice.

In 2022, Ofgem issued guidance to suppliers [5] and also sent them an open letter setting out the key regulatory expectations on suppliers when supporting customers in payment difficulty. [6] Ofgem expects suppliers to take the following actions in line with their licence obligations.

- Ensure customers can easily contact their supplier and are treated fairly when they do.
- Identify customers in vulnerable situations and provide additional support where appropriate, including ensuring that Priority Services Register data is up-to-date.
- Make proactive contact with customers in payment difficulty through a range of communication methods.
- Always take into account a customer's ability to pay, including before escalating the debt recovery process, giving due consideration to information provided by third parties representing them, including use of the Standard Financial Statement.
- Ensure prepayment meters are safe and reasonably practicable in every case and act quickly

to change the meter to non-prepayment if necessary. Additional credit support should be offered to customers who have self-disconnected or self-rationed where it is in their best interest and/or where they are in a vulnerable situation. Involuntary-fitting a prepayment meter under warrant is always a last resort and all other routes of debt recovery should be fully exhausted before applying for a warrant.

- Debt recovery action should always be fair and proportionate, and not escalated too quickly. Ensure third-party debt collection agencies treat customers fairly.

Force-fitting prepayment meters

Alert: With effect from 10 April 2024, the Senior Presiding Judge and Chief Magistrate have confirmed that the magistrates' courts can recommence the listing of applications by suppliers for warrants of entry for the purpose of installing prepayment meters. Directions have been issued requiring suppliers to satisfy the court that they have complied with the standards set out by Ofgem (see below) , admission to the property is reasonably required and and the requirements of the Gas and Electricity Codes have been met by confirming prescribed information on oath, including that:

- the outstanding debt exceeds £200 per fuel (taking into account any payment(s) made since the notice of hearing was sent;
- a written demand for payment has been made to the client and payment has not been made within 28 days of that demand;
- to the supplier's knowledge, the sum outstanding is not in dispute;
- notice has been sent to the client at least 21 days before the hearing date notifying the client that the supplier intends to apply for a warrant and of their right to ask the court for a contested hearing;
- the supplier is not aware of the client being in a Breathing Space moratorium or in the process of setting up a payment plan; *and*
- the supplier has complied with the terms of their licence and Ofgem's prepayment meter guidance, including *PPM Guidance (Safe and Reasonably Practicable)*.

A sample of cases listed for hearing must be individually checked for the above, but the majority will not be individually investigated unless the client has opted for a contested hearing.

From 18 April 2023, a new code of practice sets out how suppliers should deal with clients when considering whether to install an involuntary prepayment meter. [7] This means that a prepayment meter can be installed with a warrant, or a smart meter switched to prepayment meter mode, to recover debt owed without the client's consent. All suppliers have signed up to this code. The code includes requires suppliers (and their contractors) to:

- make at least 10 attempts to contact a customer before forced installation of a prepayment

meter;

- carry out a site welfare visit before a prepayment meter is installed;
- refrain from all forced installations for the highest risk customers including:
    - households which require a continuous supply for health reasons;
    - people over 85 (where there is no other support in the property);
    - households with residents with severe health issues, including terminal illnesses or those with a medical dependency on a warm home;
    - where there is no one within the household who has the ability to top up the meter due to physical or mental incapacity;
- wear audio or body cameras on all warrant installation or site welfare visits to check for vulnerabilities (footage to be available for audit);
- give a £30 credit per meter (or equivalent non-disconnection period) on all warrant installations or remote switches as a short-term measure to remove the risk of customers going off supply;
- reassess the case once a customer has repaid debts owed and contact the customer to offer assessment of whether prepayment remains the most suitable and preferred payment method of choice for the customer.

From 8 November 2023, Ofgem guidance for vulnerable customers with prepayment meters provides for:

- suppliers to refrain from involuntary installations for people aged over 75 with no support in their house and in households with children aged under two (this previously only applied to the people or households listed above);
- the voluntary code of practice which came into force in April 2023 (see above) to be made mandatory by becoming part of the suppliers' licence conditions, which if broken could result in enforcement action and fines.

Warm Home Discount

Clients on a low income (eg, getting pension credit) might qualify for a £150 Warm Home Discount. See gov.uk/the-warm-home-discount-scheme for more details.

Other assistance

Clients may be able to obtain a grant to pay off fuel debts. [8] Some energy suppliers have trust funds to help customers who are in debt, or may fund projects for the fuel poor. Grants are available for electricity and gas bills and may also be available to pay other essential household bills. In response to increasing fuel prices, the British Gas Energy Trust (BGET) has launched the British Gas Energy Support Fund and and the Individuals and Families Fund to help British Gas

customers with debts of £2,000 (with effect from 2 January 2024) who have not received a grant from BGET within the previous 12 months. [9] These new funds aim to help those who are most financially vulnerable with their fuel bills. Auriga Services (which works with utility companies to assist customers who are vulnerable or in financial hardship) publishes a booklet summarising the schemes, called *Help with water and energy bills*, available at aurigaservices.co.uk/wp-content/uploads/2019/10/Auriga_waterandenergy_Online.pdf.

Clients can also take steps to help save energy and reduce fuel bills. The Energy Saving Trust offers free advice on ways to reduce fuel consumption and should be aware of grants that are available locally to help cover the cost of energy efficiency measures. See energysavingtrust.org.uk.

All suppliers must provide a Priority Services Register. This is a free service to help people who may need additional support. The client needs to contact their supplier to ask to be put on it. Eligible clients include those who:

- have a disability or long-term health condition;
- are over pension age;
- have a hearing or sight condition;
- are pregnant or have children under five;
- have a mental health condition;
- have experienced domesic abuse;
- have extra communication needs – eg, they do not speak or read English well.

---

1 Sch 6 para 2 EA 1989; Sch 2B para 7 GA 1986, as amended by UA 2000. Although the legislation refers to unpaid charges for the supply of gas/electricity to 'any premises', it then goes on to provide that the supplier may disconnect 'the premises'. If the legislation had intended the supplier to be able to disconnect any premises and not just the premises to which the supply relates, the legislation could have specifically said so.

2 Condition 14 SLC

3 See G O'Malley, 'Unaffordable direct debits', Adviser online, 1 September 2022

4 Ofgem, *Decision: Modification of the electricity and gas supply licences to introduce rules on backbilling to improve customer outcomes*, ofgem.gov.uk/system/files/docs/2018/03/backbilling_final_decision_policy_document_-_march_5_-_website.pdf

5 Ofgem, *Good practice for supporting customers in payment difficulty*, September 2022, available at ofgem.gov.uk/publications/good-practice-supporting-customers-payment-difficulty

6 Ofgem, *Regulatory expectations on supporting customers in payment difficulty,* available at ofgem.gov.uk/publications/regulatory-expectations-supporting-customers-payment-difficulty

7 Ofgem, *Involuntary prepayment meter energy supplier Code of Practice*, April 2023, available at ofgem.gov.uk/publications/involuntary-prepayment-meter-energy-supplier-code-practice

8 See also M Egan, 'The good trust fund guide', *Adviser* 164

9 See BGET.org.uk

Checklist for action

Advisers should take the following action.

- Consider whether emergency action is necessary (see Chapter 8).
- Check if a breathing space application would be appropriate (see here).
- Consider a debt relief order (DRO) application. Fuel arrears are a qualifying debt for a DRO (see here).
- If the client has a smart meter, check if it has been switched to prepayment mode without the client's consent and, if so, whether the supplier has complied with Ofgem guidance.
- Check liability and whether the client is eligible for any assistance with the charges.
- Assist the client to choose a strategy from Chapter 8, as **this is a priority debt.**

Maintenance payments

Before April 1993, either the magistrates' court or county court made orders to require a parent or ex-spouse to make maintenance payments to the other partner for themself and/or any children. From April 1993, child maintenance payment powers passed to the Child Support Agency (the predecessor of the Child Maintenance Service – see here). The only new court orders made after this date are for applications not covered by the child support scheme (eg, for additional maintenance) and for spousal maintenance.

The legal position

Magistrates' courts make maintenance orders and also collect and review maintenance orders made by the county court, divorce registry and High Court. [1]

---

1 s1 MOA 1958

Special features

If a maintenance order is unpaid, the magistrates' court has powers similar to those for unpaid fines (see Chapter 14). Maintenance payable under a court order should be distinguished from voluntary maintenance payments, even those written as a legal agreement.

Checklist for action

Advisers should take the following action.

- Consider whether emergency action is necessary (see Chapter 8).
- Check liability.
- Assist the client to choose a strategy from Chapter 8, as **this is a priority debt**.

Water charges

Water companies charge for water, sewerage and environmental services using either a meter or the old rating system, which was abolished as the basis of a local tax in April 1990 in England and Wales. Under the rating system, every dwelling was given a rateable value. Each year, water companies set a 'rate in the pound', which converts this rateable value into an annual charge. For example, a rate of 20p in the pound converts a rateable value of £300 to an amount of water rates payable of £60.

If a water meter is installed, a client pays for the amount of water used, plus a standard charge. There may also be installation and inspection charges. Separate charges are levied for sewerage and environmental services. These charges are based either on the rateable value of the property or on the amount of water used as recorded by the meter.

The legal position

Water charges are payable under the Water Industry Act 1991. Water companies may use county court action to recover arrears, as they cannot disconnect domestic properties for non-payment. Water companies may waive charges if there is an ongoing supply in accordance with their charging scheme, but tend only to do so if the property is empty, including if the occupier is in hospital or residential care.

Special features

Ofwat has announced extra support for vulnerable water customers. New guidance, *Service for all vulnerability guidance*, sets out its minimum expectations of water companies in helping such customers. [1]

Bills for unmetered water charges are sent out in April and payment is due in advance, unless the client uses one of the payment options offered by all the water companies. For example, payment can be made in eight to 10 instalments or weekly/monthly in cases of financial hardship. If the client defaults, the water company can take action to recover the outstanding balance for the remainder of the year.

Many of the companies apportion the bill if a client includes their water charges in a bankruptcy or a DRO (relying on what is known as an 'insolvency clause' in their charges scheme). The company then sends a new bill to the client for the remainder of the current year. Specialist debt advice should be sought if the client wishes to challenge this. If a water company has an insolvency clause and on rebilling post-DRO the client refuses to pay, the company may issue a county court claim. The client then needs to enter a defence to the claim and may have to attend a court hearing. If the client loses, they would have a money judgment for the debt (plus costs) to pay. Alternatively, the client may make alternative arrangements to pay the reissued bill and include the ongoing water charges as a necessary expense in the financial statement.

It is important to check that the bill refers to a property in which the client actually lives, or lived, and that the dates of occupation and name(s) shown on the bill are correct. The occupier of the property is the person liable to pay the bill. If there is more than one occupier, each is jointly and severally liable. [2]

If there is a meter, bills are issued every three or six months based on meter readings carried out by the company's staff or the client. If this is not possible, an estimated bill is issued. Bills should be checked and queried if they seem too high as there may be a hidden leak or the meter may be faulty.

Water companies cannot disconnect for arrears of domestic water charges and this is therefore a non-priority debt (see Chapter 9), but the realistic cost of current water charges must be in the financial statement to avoid ongoing enforcement action. [3]

Ofwat's *Paying Fair Guidelines* set out the following principles that water companies should follow to support residential customers. [4]

- Companies should make it easy for all customers to pay their water bill, including offering flexible payment and billing frequencies, and choice and availability of payment methods. These payment options should be advertised to all customers.
- Companies should ensure customers who are eligible for help receive it when it is needed. This involves identifying customers in vulnerable circumstances, including customers at risk of falling into debt as well as other life events such as financial abuse and bereavement.
- Wherever practicable, customers whose accounts are managed by, for example, local authorities or housing associations should receive the same level of services and care as customers whose accounts remain with the water company.
- Companies should proactively contact customers in debt to identify whether they are in payment difficulty and use that contact to gain more information about the customer's ability to pay. Debt recovery strategies should be tailored and companies should stop chasing customers if they are receiving debt advice.
- Communications to customers in debt should be clear, courteous and non-threatening. It should clearly set out the action the company will take if the customer fails to make payment or contact the company. Enforcement action should be used as a last resort.
- Companies should agree payments that are realistic and sustainable for each customer in debt. Companies should establish each customer's ability to pay using the standard financial statement and allow the customer sufficient time to consider any payment proposal and seek independent debt advice. Customers should be referred to the company's financial hardship fund or other affordability schemes for help.
- Customers whose accounts are managed by debt recovery agents should, wherever practicable, receive the same level of service and care as those whose accounts remain with the company. Companies should use use reputable debt collection companies that treat customers fairly and in line with agreed levels of service.
- Where possible, companies should avoid using High Court enforcement, except in those cases where they can show customers are persistently and deliberately not paying (para 5.13). [5]

Some landlords act as collection agents for water charges. If the tenancy agreement defines the rent as being inclusive of 'service charges', then the water charges and the 'net rent' are defined as 'rent'. On arrears accruing, the landlord could take possession action based on non-payment of rent. On the other hand, if there is a distinct, separate obligation in the tenancy agreement for charges such as water charges to be paid, it is likely arrears of these charges would not be considered arrears of rent. In this situation, if the landlord issues possession proceedings, obtain

specialist housing advice. [6] The Ofwat guidelines provide that, where eviction for non-payment of water charges is a possibility, water companies should discuss such cases with landlords to find alternative solutions.

Advisers should be aware that there is a vulnerable groups scheme (the WaterSure scheme) available for clients on low incomes with water meters, which caps their charges. See ofwat.gov.uk/households/customer-assistance. Many water companies have set up trust funds to assist clients with paying arrears of water charges. Check your local company's website for details of any local schemes. [7]

Auriga publishes a leaflet summarising the schemes or services water (and energy) companies provide, available at aurigaservices.co.uk.

---

1 ofwat.gov.uk/regulated-companies/vulnerability/service-for-all-vulnerability-guidance

2 In Wales, a landlord is required to provide information to the water company about its tenant(s) (the occupiers). If the landlord fails to do so, the landlord is jointly and severally liable for the water charges with the tenant: s144C Water Industry Act 1991.

3 s1 and Sch 1 Water Industry Act 1999

4 Ofwat, *Paying Fair Guidelines*, 2022, available at ofwat.gov.uk/regulated-companies/vulnerability/paying-fair-guidelines/

5 For further information, see D Spedding, 'Paying fair with household customers in water debt', *Quarterly Account* 65, IMA

6 See also england.shelter.org.uk/professional_resources/legal/costs_of_renting/rents_and_rent_increases/what_rent_covers

7 In addition, *Adviser* 105 contains a series of articles on dealing with water debt. See also J Guy, 'Maximising income: using utility trust funds', *Quarterly Account* 4, IMA.

Checklist for action

Advisers should take the following action.

- Check liability. Consider whether the client is eligible for assistance under the water company's consumer assistance scheme(s).
- Check if an application for breathing space would be appropriate (see here).
- Assist the client to choose a strategy from Chapter 9, as this is a non-priority debt.