

Utility Regulator Consultation: Code of Practice Proposals for Consumers in Vulnerable Circumstances Advice NI Response

Q1. Do you agree that where this document has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for utility consumers?

We agree that the proposals put forward will have a generally positive impact on equality of opportunity for utility consumers, in that it provides for more comprehensive protection when dealing with utility suppliers, and sets out clear frameworks in which support should be made available.

It is generally presumed that the impact on specific groups protected under Section 75 will be positive. It must be recognised that stratified data on access to utility services and particularly vulnerability is limited (for example, in terms of persons of different religious belief, political opinion, or racial group). Nevertheless, some data is available, such as the Competition and Markets Authority's 2019 [research on consumer vulnerability](#), which suggests that greater challenges are faced by people aged over 65 and those with a disability, as well as the [latest Insights](#) from Understanding Society's UK Household Longitudinal Study, which found that 1 in 5 pensioners live in poverty. As such, we welcome the emphasis on accessibility of information and support for consumers.

Q2. Do you have comments on any of the UR proposed decisions set out in section 2? Please clearly state in your response which decision your comments relate to.

We welcome the comprehensive definition of vulnerability proposed by the Regulator, along with its intention to integrate this into a single code of practice applicable across the sector.

Q3 Do you have comments on the URs proposal on industry working groups as set out in section 3? Please clearly state in your response which aspect of the proposal that your comments relate to.

We support the introduction of industry working groups to help implement the new mandatory Code of Practice. In order to effectively deliver in this area, companies need to be proactive about integrating the CoP into their day-to-day activities, and deliverable A supports this approach.

Likewise, the decision to integrate customer care registers at the industry level is welcome, although we would emphasise the importance of robust data protection measures and the need to communicate clearly with consumers about the use of their data and to conduct regular monitoring (see relevant comments under Q5 and Q6).

Q4 Do you have comments on the UR proposed decision set out in section 4?

Practical support measures may be susceptible to being watered down by companies in practice. It is our general experience that both public and private bodies have a tendency to supply information via a website and consider this to be sufficient action to meet a requirement to identify relevant support. In our view, it is important that consumers have a range of options for accessing information, and that companies make the effort to engage with consumers to identify the most effective sources of support.

In respect to the principles on Culture, ethos and training, Advice NI has provided a range of bespoke training to utility suppliers to help their staff to recognise and offer tailored support to vulnerable consumers. Whilst we accept that engagement with these principles is already positive at corporate and management level, it is essential that this filters down to customer-facing staff who actually have to deal with these issues in practice.

Companies need to be proactive in identifying the client's vulnerabilities and should use their data to understand their customers better. In line with the FCA's new Consumer Duty, they need to put the customer at the heart of what they do. Companies can develop processes to use the data they hold and the Regulator needs to develop processes to monitor this.

As the Regulator will be well aware, the essence of the Duty is to deliver good outcomes for consumers. Companies should act in good faith, avoid foreseeable harm, and enable and support consumers to pursue their financial objectives. As such, we would recommend a principle relating to good customer outcomes (related to BS ISO 22458), which would cover the promotion of complaints, measurement of consumer outcomes and customer satisfaction.

Q5 Do you have comments on any of the UR proposed decisions set out in section 5? Please clearly state in your response (using the measure number) which decision your comments relate to.

See attached Appendix A.

Q6 Do you have comments on the URs proposal on the new structure for registering consumers in vulnerable circumstances as set out in section 6? Please clearly state in your response which aspect of the proposal that your comments relate to.

We agree with the plan in general, and welcome the specific intention to expand and standardise the customer care system.

The approach with respect to the second-tier, need-based register will need to be carefully monitored, and we would hope that the working groups seek out the views of relevant stakeholders when working out those details. Companies may need to be

flexible in their approach to reviewing entries, and improve their communication with vulnerable customers.

Q7 Do you have comments on the URs proposed licence conditions as set out in section 7? Please clearly state in your response which aspect of the proposal that your comments relate to.

None.

Q8 Do you have comments on the URs proposal compliance and monitoring as set out in section 8? Specifically, we seek comments on stakeholders preferred monitoring option(s). Please clearly state in your response which aspect of the proposal that your comments relate to.

Compliance and monitoring will require a number of reporting elements, and regular review of the effectiveness of the systems put in place.

On compliance, we approve of the suggestion to require a Compliance Plan, and note that the FCA requires an implementation plan and gap analysis to support compliance with the Consumer Duty.

Whilst we have no objection to the proposal to require retrospective compliance reports, we would also recommend that the Regulator hold the right to request data at any stage.

Q9 Do you have comments on the URs proposed timelines for implementation as set out in section 9? Please clearly state in your response which aspect of the proposal that your comments relate to.

None.

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Appendix A: Response to Q5 – Proposed Measures

Proposed Measure	Advice NI Response
<p>Measure 1.1 - All companies to adopt the UR’s vulnerability definition: ‘A consumer is deemed vulnerable when their personal characteristics or circumstances reduce their ability to engage effectively and achieve fair outcomes. A vulnerable consumer is significantly less able to protect or represent their interests and significantly more likely to suffer detrimental impacts on their health, wellbeing or finances.’</p>	<p>We believe that the definition is comprehensive and adaptable, and especially that it reflects the wide range of causes of vulnerability.</p> <p>As a welfare rights agency, we work to address inequalities suffered due to poverty and hardship, which are not fixed and which interact with a variety of other factors, such as age, disability, and mental health. It is essential that the definition of vulnerability focuses on the experience of the consumer rather than their underlying condition or status.</p>
<p>Measure 1.2 - Obtaining the BS ISO 22458: 2022 Consumer Vulnerability standard is recommended to all companies (but not required). The BS ISO standard will be aligned to the CoP requirements, so will evidence (for those companies who obtain it) compliance with a number of the CoP requirements.</p>	
<p>Measure 1.3 – All companies should have a specialist vulnerability team or person (dependent on the size of the business) within the appropriate part of the business to champion innovative strategies for the treatment of consumers displaying signs of vulnerability (including the use of inclusive design principles). This vulnerability team should include a staff</p>	<p>The decision to remove the requirement to include a board member is disappointing, as this gave emphasis to embedding vulnerability throughout the organisation and indeed ensures that customers are getting good outcomes. This would also help companies to meet their responsibilities under ISO as well. By contrast, the FCA has even requested proof that the Consumer Duty is on the agenda for board meetings:</p>

member at a senior level and will represent, mentor and oversee the company's work on vulnerability.

We want firms' Boards and senior management to make good outcomes for consumers central to their firm's culture, strategy and business objectives.

In FG22/5, we said that we expect firms to have a champion at Board (or equivalent governing body) level. We said that this champion should be an Independent Non-Executive Director (NED), where possible. For larger organisations with group structures, we expect this champion to be at an appropriate Board level so that the Duty is discussed in a meaningful way.

The primary role of the Board champion is to support the Chair and CEO in raising the Duty regularly in all relevant discussions, and challenging the firm's governing body/management on how it is embedding the Duty and focusing on consumer outcomes.

This is not a 'prescribed responsibility' under the Senior Managers & Certification Regime (SM&CR). Firms can set it up in a way that fits with existing roles and responsibilities on their Boards.

Generally, the Board champion should work with the Chair, but this will depend on the firm and its Board. In some cases, it may work for the Chair to be the Board champion for the Duty. Firms should apply their judgement and set up the role in a way that works for their organisation.

This does not affect the Board's collective responsibility under the Duty or their roles in complying with the Duty under existing governance procedures.

In FG22/5, we have included examples of the types of questions the Board champion, or other members of

	<p>firms' governing bodies, could ask to make sure the firm is meeting expectations under the Duty. These questions illustrate the outcome focus of the Duty and are the sorts of questions we will ask firms.</p>
<p>Measure 2.1 - Ensure that all relevant staff (e.g. consumer facing staff, field staff, call centre handlers, and sub-contractors) and to include staff at a senior level, are adequately and frequently trained in the identification of consumers in vulnerable circumstances or /and who may be eligible for the customer care register, and in treating customers in an empathetic manner to encourage customers to self-identify. To include, but not exclusive to, disability training (in relation to hidden disabilities, learning difficulties or communication barriers), mental health awareness training and empathy training.</p>	<p>Advice NI has already provided bespoke training to utility companies in this area – e.g. specialist vulnerability champions, financial wellbeing, assisting vulnerable energy customers. If more information or engagement is required we would be open to contact from the Regulator and/or companies within the sector.</p>
<p>Measure 2.2 - All companies to remove call duration targets for vulnerability and affordability themed calls.</p>	<p>Agree with this principle however companies need to be able to report on how they identify and measure this. Otherwise if some form of monitoring doesn't happen then it could mean customers cannot access the service. So companies need to be able to ID vulnerable calls from regular ones and this could be hard for them.</p> <p>Companies need to make sure telephony staff are properly trained to recognise vulnerability, to support a proactive rather than reactive approach - appropriate management and monitoring of staff is crucial.</p>
<p>Measure 2.3 - Ensure there is always a person(s) on duty during call centre operating hours who has the authority to</p>	<p>Agree, it is beneficial for companies to have dedicated people available to make decisions and provide mentoring support for</p>

make flexible decisions in relation to the support provided to consumers represented by the UR's vulnerability definition.

staff, otherwise this will fail. Companies may well find that they need to set up teams who are champions – however these teams will also support each other by sharing issues, developing best practice to begin to improve. I would see these teams being the ones to provide training and support across the wider teams once they are established. Also, having dedicated people assigned to vulnerable customers helps them greatly as this provides consistency for them. This is a standard feature of safeguarding policies.

Measure 2.4 – Establish a partnership between consumer representative bodies and Suppliers/network companies (which can be readily evidenced and which is intentionally cultivated and maintained) to raise awareness of the existence of customer care registers amongst members and clients.
Measure 2.5 – Ensure processes are in place to enable a warm handover of consumers in vulnerable circumstances who are in need of additional support.

We believe these measures would be far more robust if they encouraged the establishment of formal referral partnerships to deliver on the goals intended, particularly the intention to facilitate warm handovers. Advice NI already has agreements in place to facilitate this with some organisations, and provides a closed referral portal to facilitate secure transfer of consumer information. Other CVS bodies, such as the Trussell Trust, have a similar approach.

There also needs to be more discussion about what additional support needs are, as the consumer representative bodies should not be a dumping ground for companies to pass off customers with complex needs. There should be a clear reason why companies are referring, which should be in line with the referring partnership agreements.

In our own case, we find that people report to their supplier that they are struggling and this is immediately handed off to Advice NI. On investigating with the client they report no debt or benefit entitlement, which means there is limited support we can offer. Community and voluntary organisations do not have capacity to manage inappropriate referrals. Formal referral

	<p>partnership agreements will help to mitigate this problem by establishing the basis for referral in advance and providing a mechanism for monitoring and improvement.</p>
<p>Measure 2.6 - All companies to provide a phone number for consumers that will not incur a premium rate charge, alongside providing other avenues for customer contact that are free of charge (to include as a minimum a call back option).</p>	<p>Agree that premium lines should never be used. However, vulnerable consumers (once identified) should have free access to their named customer agent (see 2.3 above) to help support them on their journey.</p> <p>By contrast, other contact points are less likely to be accessible to the person – especially if that person lacks digital capacity or is experiencing poverty or hardship. Given that the charity sector can provide free access without exception it seems reasonable to expect profit-making companies to do the same. It is also important that companies monitor and measure implementation here, especially as the evidence from the energy payment scheme is that when suppliers are under pressure these measures are the first to break down.</p>
<p>Measure 3.4 - Actively promote customer care registers (to encourage greater identification and sign up of eligible customers) to the wider public through a number of different communication channels such as, but not limited to, social media, websites, outreach events and advertisements. Engagement should occur with at least one consumer representative body in developing and/or delivering the promotion. Companies must be able to evidence promotional activity through at least 3 different communication channels each year. This activity can be delivered in collaboration with other utility companies and/or consumer representative bodies.</p>	<p>This proposal is positive in that it reflects the wide range of access points for consumers and encourages an inclusive approach, which is particularly in line with Section 75 duties. We would argue that this measure means reference to the promotion of customer care registers can be removed from measure 2.4, and/or reference to proposed referral partnerships be included here.</p>

<p>Measure 3.5 - All companies to use best endeavours during any customer interaction to proactively identify when someone is experiencing a potentially vulnerable period and make contact with them to establish if they are need of support.</p>	
<p>Measure 3.6 – Take all reasonable steps to ascertain whether an occupant of a domestic property and/or the bill payer falls within the scope of eligibility to be added to the customer care register, and if eligible add the consumer to the customer care register (subject to their consent).</p>	
<p>Measure 4.1 - All companies will have an adequate Data System that is interoperable with industry systems used for customer care registers and will support the inputting, holding and maintaining of an adequately detailed consumer profile with regards the customer’s specific support needs.</p>	<p>We agree that the collation of data for the benefit of consumers would be generally beneficial, and take the view that utility companies should be working harder to make use of the data they collect for this reason.</p> <p>Collecting data can be relevant as long as there is a purpose for it. In this instance it would be for the companies to get a better understanding of the customer base.</p> <p>In addition, consent can also be implied and we would propose companies work with the ICO to understand this so that this is not used as a barrier to engaging with third parties (e.g. consumer representative bodies).</p>
<p>Measure 4.2 - Ensure that the customer care register holds sufficient information (in line with existing Data Protection legislation) on the needs or requirements of the domestic customers who are considered vulnerable due to age, disability or chronic illness [medical customer care register] and/or mental health status or other reason covered under the definition of vulnerability.</p>	<p>This measure will need active monitoring to ensure that barriers relating to GDPR do not become an excuse for inaction – in fact, GDPR requires the maintenance of accurate data where that is stored.</p> <p>Important that register holders engage with consumers about the intended operation of these systems and work with</p>

	<p>stakeholders to make the review process as painless as possible.</p>
<p>Measure 4.3 - Customer care register holders should contact all registered customer care consumers (or a nominated representative) at least every two years to ensure they are receiving the necessary support. This should be a meaningful contact, by the consumers preferred method of contact, to re-assess the level of support they require.</p>	<p>The care register holder should make every effort to make contact with the person, and whilst this should be initially via the preferred contact method if this contact fails then they should try another method. They also need to establish a clear procedure for chasing registered customers. Important to provide clear guidelines about how this will be conducted, and engage with independent advice so that we are able to respond to queries. What will happen if customer not reached? Need assurance this will not be grounds for removing someone from the register.</p>
<p>Measure 5.1 - Take all reasonable steps to not disconnect a customer who has not paid their bill and is of pensionable age, disabled or chronically sick and lives alone and who are represented by the vulnerability definition or only with other persons who are of pensionable age, disabled, chronically sick or under the age of 18, or with a dependent aged under 5 years and who are represented by the UR's vulnerability definition. Measure 5.2 - Take reasonable steps to avoid disconnecting the supply to premises where a bill has not been paid and includes an occupant who is of pensionable age or disabled or chronically sick or under the age of 18, or with a dependent aged under 5 years and who are represented by the UR's vulnerability definition during any winter period, that is to say, a period beginning with 1 Oct in any year and ending 31 March in the following year.</p>	<p>Is it intended that both those aged under 18 in general and dependents aged under 5 in particular should be included here? Definition/interpretation of 'reasonable steps' is crucial to the effective operation of these measures. A proactive approach from suppliers would be effective, where disconnection is only considered as an option once the supplier has discussed the reason for the missed payment with the customer and offered referral/handover to an independent debt advice service.</p>

<p>Apply to gas and electricity Suppliers</p>	
<p>Measure 5.3 - Ensure a domestic premises which includes an occupant who is of pensionable age or disabled or chronically sick and who are represented by the UR's vulnerability definition can avail of a flexible payment plan for any reconnection charges. This repayment plan must be based on the customer's ability to pay and is to include but not exclusive to the use of instalments. If the reconnection is following disconnection or isolation from the network to ensure safety, the DNO can request an agreement with the customer to regular meter checks for the first year of reconnection. Applies to gas DNOs and Suppliers</p>	<p>Important that repayment plans are tailored to personal circumstances, and that assessment of hardship is based on an agreed model.</p> <p>With regard to no fault disconnections, we propose that in exceptional circumstances companies could waive the fee. This would not be a blanket policy, just where it was deemed fair and appropriate.</p>
<p>Measure 5.5 - Provide special identification for employees authorised by the Licensee to visit households. This will include operation of a password scheme and another telephonic based identification scheme (such as the Quick Check 101 scheme). Applies to all regulated utility companies</p>	<p>Has consideration been given to accessibility of the approach to be taken?</p> <p>It will also be essential for stakeholders to be informed about the processes to be adopted to assist consumers in navigating any new systems.</p>
<p>Measure 6.1 - All companies to provide (free of charge and accessible) advice and information on the additional services available to customers because of their age, disability, or chronic illness and/or who are represented by the UR's vulnerability definition. This should be provided through a number of channels to include, at minimum, the company's website and customer's bills. Advice and information provided must be accessible and displayed (if applicable) in a prominent position.</p>	<p>As mentioned above, companies need to be mindful that not all consumers have full digital capability and may be excluded from digital access due to other circumstances, including transient events such as loss of connection or short-term hardship.</p> <p>On the other hand, companies have an opportunity to facilitate the development of their customers' digital capability by signposting to relevant resources and supporting agencies.</p>

<p>Measure 7.1 - All companies to provide consumers who are represented by the UR's definition of vulnerability and are experiencing affordability difficulties with their energy bills with the option of a 'warm handover' to a consumer body which can assist them with a benefit entitlement check facility. Applies to all regulated utility companies</p>	<p>See above comments on measures 2.4 and 2.5. Important to integrate this into formal referral procedures to ensure that standardised procedures are in place and that staff within the utility companies understand the appropriate context and procedures for handover/referral.</p>
<p>Measure 7.2 - Include the option of 'breathing space' when developing a payment plan for customers in debt who are represented by the UR's definition of vulnerability. Breathing space is a period during which an individual in debt is provided with respite from creditor action in order to fully engage with debt advice agencies and seek sustainable solutions to their debt. The period of time should be decided on a case-by-case basis based on the individuals' circumstances. Applies to Suppliers</p>	<p>We agree this would be a positive measure, and feel it should be tied more directly to measures 5.1 and 5.2 above.</p>
<p>Measure 7.3 – All companies will use best endeavours to proactively identify consumers who are at risk of self-disconnecting and provide advice and support/financial assistance where appropriate.</p>	<p>We propose that this measure should be referred to the proposed working groups to investigate and develop an agreed approach (see Q3 above), as we believe this is more likely to encourage buy-in from utility companies than any imposition from the Regulator.</p>
<p>Measure 7.4 - Target consumers with a PPM debt on or over a specified amount (£200) and provide an incentive to engage to discuss debt repayment that will include a package of support measures (e.g. warm handover to organisation who can carry out a benefit entitlement check). Applies to Suppliers</p>	<p>See preceding comments on warm handover/referral partnerships.</p>

Measure 10.1 - All companies to conduct research and engagement with consumers in vulnerable circumstances, to include those on customer care registers (every two years at a minimum). A copy of the final research report must be submitted to the Authority and a public version made available.

This is a positive measure that will allow the sector to gain an improved understanding of vulnerability, and provide the basis for future policy development.

Measure 10.2 - All companies to publish an accessible version of the returns submitted to the Authority on compliance with the Code of Practice for consumers in vulnerable circumstances on their own websites. These returns will also be published on the Authority's website.

It is important that the publication format is accessible and consistent to assist in the comparison of data from company to company.