



Utility Regulator Best Practice Framework: Code of Practice for consumers in vulnerable circumstances

The Consumer Council Response

September 2023

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Our reference: PD 20010/3251

Executive Summary

We welcome the opportunity to respond to the Utility Regulator's (UR) consultation on Best Practice Framework proposals for a Code of Practice (CoP) for consumers in vulnerable circumstances and provide further comment in support for its development and implementation.

We are pleased that many of the requests we made through the UR's 2019 and 2022 consultations have been included in the final set of CoP proposals.

The new CoP contains improved protections for consumers, along with new ways for utility companies to work together to provide these. We now see the priority as getting the CoP in place to start delivering benefits for consumers.

It is inevitable that some measures will prove more difficult and take more time to implement, that some may not match emerging consumer need, and that changes in consumers' needs will require changes in the support companies are providing. We support the proposals to keep the CoP and company compliance under review to make sure the CoP and its measures provide the support consumers require.

A formal review and change process for a Licence condition CoP can be lengthy and can struggle to keep pace with consumer need. We expect the principled approach set in the CoP to allow appropriate responses to be made by industry outside the formal CoP review process via the industry processes to be established in the industry working groups.

The establishment of the industry working groups should provide for the effective delivery of detailed industry procedures to ensure compliance with the CoP. We have questions about the level of UR scrutiny of these plans pre-implementation but support the groups formation and playing our part in their delivery of the CoP outcomes.

We thank UR for the consultative approach to the development of the CoP. We look forward to continuing to work closely with UR and industry in the delivery of the proposals, both as the statutory consumer body for energy and water consumers, and in our role as Chair of the Consumer Protection Advisory Group.

Below we answer UR's consultation questions. Where we do not comment on a measure or proposal UR should read this as Consumer Council support. Paragraph references are from UR's consultation document.

1. Equality considerations

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 all foreseeable impacts will be positive.

Additional consideration of equality impacts will be needed as data sharing arrangements and protocols are developed under Measure 8.1 as set out in the UR's proposals.

2. Vulnerability definition and structure of CoP

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.

Definition of vulnerability - we agree with having a standardised utility sector definition of consumer vulnerability.

We also agree that the definition should be used by regulated companies in NI to identify and support consumers in vulnerable circumstances across all their operations, not just the aspects covered in this CoP (paragraph 2.25).

In our 2022 response we requested that the definition included wording recognising organisational behaviour as a risk factor that can cause and exacerbate vulnerabilities. Explicitly stating this would put UR in-line with Ofgem, Ofwat and the Financial Conduct Authority. UR explains how it recognises market factors but wishes to keep the focus of the definition on the individual and will do this through implementing an unamended definition.

We would repeat our request for the definition to include organisational behaviour. Should the proposed definition be introduced, for the avoidance of future doubt, we will view the 'circumstances' aspect of UR's definition as including the circumstances created by organisational behaviours.

If there is uncertainty or disagreement as to applicability of the definition the benefit should always be given to the consumer.

Mandatory CoP with principles and required measures - we continue to support the introduction of a single mandatory hybrid CoP across the electricity, gas and water sectors (with some required differences depending on sector, or being a DNO or supplier). The CoP structure proposed in Figure 1 of UR's consultation document provides the clarity of which measures are required within each sector. We support such a structure.

In addition, the final CoP should be clear and unambiguous in stating that the requirements within are minimum standards that companies must deliver, and that companies are able and encouraged to provide additional measures in-line with the principled approach as determined to suit the needs of its customer, both in times of crisis and ongoing need.

3. Industry working groups

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 establishment of the industry working groups and that their formation should begin before the publication of the final decision paper. The working groups should provide for speedier and more effective implementation of the deliverables shown in Figure 2.

The industry procedures to be set up via the industry working groups will include pre-planned reviews at set timeframes alongside ad-hoc reviews to react to changes in the industry or environment (paragraph 3.9). We appreciate the membership, tasks and processes for each group will become clearer as they are established, terms of reference are set, and industry procedures are agreed. We feel greater clarity will be required on the:

- timelines for pre-planned set reviews,
- criteria and thresholds for ad-hoc reviews, and
- process and authority for calling an ad-hoc review.

UR sets out how it will not approve industry procedures, but may provide feedback and may direct to review and amend (paragraphs 3.10, 3.20 and 3.22). The role of UR as an adjudicator is clearly proposed (paragraph 3.19), but we would like more clarity on the role of UR in checking procedures and amendments before implementation to protect against the risk of company bias through allowing company led solution development.

We agree with the requirement being placed on the working groups to provide progress reports to UR every two months as a minimum.

As the groups are established we will require greater clarity on the role for ourselves (paragraph 3.18).

4. Principles

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

We support the ten principles.

We note UR's response that our request for a measure to provide consumers with an annual review to ensure they are on the lowest tariff and payment method will be considered when consulting on the new Consumer Protection Programme (CPP) (paragraph 4.11).

5. Required measures

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.

Measure 1.1 – see above comment on vulnerability definition.

Measure 1.2 – the previous proposal was for attainment of ISO 22458 to be mandatory. This has been downgraded to a recommendation.

Our preference is for attainment of ISO 22458 to remain as mandatory.

UR notes several issues raised in its explanation for the amendment to recommendation only:

- GB alignment - UR discounts alignment to GB as a reason for the amendment. We agree. We are developing NI solutions to the vulnerability risks being experienced by consumers in NI.
- Regulatory burden and double regulation - We agree that ISO should be used to demonstrate compliance with many CoP requirements. This will reduce regulatory burden. We would also note that other regulatory Licence conditions are subject to compliance with mandatory external standards, for example the NI Fuel Security Code¹ and recognised accounting standards.² We do not see why protections for consumer vulnerability should not be held to a similar standard of external verification.
- Resource implications – we appreciate there are resource requirements for attaining and maintaining the ISO standard, as there are costs in operationalising the measures set out in the CoP. UR has previously confirmed additional costs for consumer vulnerability measures would be allowed under price controls and tariff reviews, subject to an efficiency challenge. As UR notes, the CoP and ISO are very compatible, and many of the CoP requirements are mirrored in the ISO requirements, so company actions would be applicable to both rather than result in any duplication of costs.

If the requirement for ISO accreditation remains non-mandatory UR should review the ISO criteria to ensure there are minimal gaps in service design and provision between it and the CoP, for example the ISO includes criteria for the design and delivery of accessible online services.

If the ISO remains non-mandatory due to resource implications, we would ask that UR considers setting a revenue or customer base threshold above which it would become mandatory for a company to attain ISO.

We would also ask that a requirement is included for a company to explain its decision to not pursue ISO accreditation in its return to UR under measure 9.1.

Measure 1.3 – we support the establishment of a specialist team or person, with one member being from a customer facing area of the business (paragraph 5.24). We would like the CoP to retain Board level responsibility and oversight of company’s vulnerability work. As a minimum this should be through an identified senior manager to lead on vulnerability with implementation and reporting responsibilities to Board and UR.

Having a senior level member of staff will also enable appropriate staff support schemes to be put in place.

We would also support the proposal for the development of company level vulnerability strategies approved at Board level as part of the CPP (paragraph 5.27).

¹ NIE Distribution Licence Condition 11 compliance with the NI Fuel Security Code. [NIE Networks Distribution Licence - effective 24 05 2023.pdf \(uregni.gov.uk\)](#)

² Condition 47, clause 6 of Power NI Electricity Supply Licence compliance with accounting standards [The Northern Ireland Authority for Utility Regulation \(uregni.gov.uk\)](#)

We have not discussed the proposal for CPAG to receive briefings from companies on their work with consumers in vulnerable circumstances, but as the Chair of CPAG we anticipate this would be welcome and provide a good opportunity to provide feedback and challenge. These briefings could be scheduled as part of the returns process required under measure 9.1.

Measure 2.3 – we support the amendment. The amended measure retains the clear need for flexible approaches to provide support. This flexibility of approach and decision making, while less urgent, will also be required when contact is not via telephone or outside contact centre operating hours.

Measure 2.4 – we support the proposal to split this measure into two new measures.

Measures 3.1 and 3.2 – we support both measures. For 3.2 clarity should be established and set, via the industry working group data sharing protocols what ‘timely manner’ is.

We welcome the involvement of the ICO to ensure that GDPR protections are fully considered in developing the new Customer Care Registers (CCR), and to ensure that these do not create barriers to its delivery.

Measures 3.3 and 3.4 – we support both measures to raise awareness, and for this to be cross-utility and involve consumer bodies.

As UR notes, it will be important to monitor the effectiveness of measures 3.3 and 3.4 (paragraph 5.93). We would repeat the point made in our 2022 response that while target setting is outside the remit of a CoP, we would call on UR to use appropriate regulatory mechanisms to set targets for raising awareness of the support available for consumers and the new CoP. This has been done for NI Water through the PC21 process.

Measures 3.5 and 3.6 - UR may need to provide additional information and expand on what is expected as ‘best endeavours’ and ‘take all reasonable steps’, particularly in relation to disengaged and prepayment meter consumers, currently 45% of electricity customers and 66% of natural gas customers. This may require setting minimum steps for agreement via the industry working groups.

Measure 4.4 – in our 2022 response we had asked that UR specify that a minimum number of attempts at contact by different communication methods be attempted before a consumer is removed from company registers. UR has set three attempts by the consumers’ preferred contact method before removal. Companies should be asked to consider a different communication channel if the first two attempts have not proved successful.

Measure 5.2 – the moratorium should be extended to a full year to prevent disconnection without meaningful engagement with the consumer, over and above the standard debt chase processes.

A separate measure for a permanent moratorium on disconnection and/or prepayment meter installation must be put in place for households where any occupant uses identified life dependant or critical care medical equipment.

We would query why 5.1 states ‘take all reasonable’ and 5.2 states ‘take reasonable’. Should all reasonable steps not be taken before disconnection under both measures?

Measure 5.4 – we support the free annual safety check for gas appliances. Future versions of the CoP should consider a free electrical safety check for households using life dependant or critical care equipment.

Measure 6.1 – if ISO is made non-mandatory (measure 1.2) UR should consider including a requirement for accessibility design for websites and touchpoints.³

Measure 7.1 – we welcome the clarity and confirmation that this measure should be offered proactively by companies rather than be provided on request from consumers.

This service should be reviewed for effectiveness with future versions of the CoP considering warm handovers and referrals for non-affordability vulnerabilities.

Measure 7.2 – the measure should state that the development of payment plans to be agreed with the consumer will include the setting of PPM debt recovery at a maximum of 20%. The Customer Charter has debt recovery set at 20% over the winter period, this could be extended over the full year for consumers in vulnerable circumstances (this may sit better with ‘reasonable steps’ under Measures 5.1 and 5.2).

Measure 7.3 – we support a review of this measure once the meter upgrade programme is complete and welcome the commitment to work with industry and consumer bodies to develop support for consumers who self-disconnect.

Measures 7.4 and 7.5 – we welcome the reduction in debt level to £200 and the introduction of the new separate measure 7.5.

Measure 8.1 – thank you for the requested change of wording.

We welcome the clarity on the provision of updates and the possible role for us in the working groups (while further clarity is needed, see above). Through this we would like transparency on how proposals from the industry working groups will be scrutinised, vetted and agreed before implementation.

Measure 9.1 – should the measure specify the frequency of returns? We would suggest annually. We support the reduction in reporting needs for compliance if ISO accreditation is achieved.

Measure 9.2 - as noted above, we believe targets should be set for awareness.

If DNOs are designated as CCR holders the action can be placed with them to coordinate actions to promote awareness.

Measure 10.1 – UR explains the purpose of this measure is for regulated companies to review how effective their own processes are for their vulnerable customers and identify any ways they could improve. In our 2022 response we requested that companies:

- adopt co-design approaches to developing and implementing measures, and

³ Touchpoints can include, for example, service environments such as branches, shops, hotels, or methods of communication such as telephone, email, websites or apps.

- include post-incident satisfaction and lessons learnt surveys as part of their engagement processes.⁴

Measure 10.2 – we support the requirement to publicly report on compliance.

It is not clear if UR will evaluate company returns and provide commentary. UR should also report publicly on company progress and performance against the CoP measures, for example UR’s publication of an annual Cost and Performance report for NI Water, and Ofgem’s public annual report.

UR explains that it does not think the introduction of a league table or rating system would be beneficial at this time, noting the rigorous evaluation required to obtain ISO accreditation. As ISO is now proposed to be non-mandatory, we see a possible gap in publicly available comparison information. We would welcome further discussions with UR on our proposal to allow public benchmarking of vulnerability protections alongside the public reporting of company returns (paragraph 8.7).

6. Customer Care Registers (CCR)

We agree with UR that the current CCR structure is not best practice - having multiple CCR’s is not cost effective, places the burden on the consumer and opens the possibility for confusion and disengagement. For these reasons it needs to be revised and the aim of a single CCR for NI utilities should be pursued with pace.

We are very aware of the complexities of establishing data sharing protocols. The sensitivities and need for security to protect consumer data and how it is used will require careful and detailed consideration. It is for these reasons that we supported the proposal for a separate data sharing workstream to allow this work to be done, whilst not delaying the implementation of the remainder of the CoP vulnerability protections.

The stepped progress of a move to interim sectoral CCR’s, with DNOs as holders, and then to a single NI utility CCR is sensible. To ensure progress is maintained UR should set deadlines for the accomplishment of both.

We support the two-tiered approach of 1. medical care and 2. needs-based tiers.

7. Licence conditions

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.

In addition to the pre-planned reviews to be set via the industry procedures, we believe the Licence condition should include a set periodic formal review of the CoP. This will act as a backstop against any elements not being reviewed, help ensure that the CoP keeps pace with best practice, advances in company provision and changes in consumer need.⁵

⁴ PC21 requires NI Water to conduct a post-incident satisfaction and lessons learned survey (PC21 Final Determination, page 37. [PC21 FD - Main Report 02.00.pdf \(uregni.gov.uk\)](#)). This could be replicated across other DNOs and supply companies.

⁵ For example NI Water’s Licence includes as a minimum a three yearly review of its CoPs. NI Water Licence condition G.

8. Monitoring and compliance

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.

We would support retrospective compliance reporting combined with accompanying compliance plans. We would expect this reporting to include statistical measures of delivery as noted by UR under results-based reporting alongside company commentary on the benefits it has delivered for consumers in vulnerable circumstances. This commentary should align with both the CoP and company specific vulnerability strategies.

UR has set six months following publication of the final decision paper for Licencees to implement the requirements to be compliant with the new CoP (paragraph 9.2). A one-off stand-alone submission should be required from each Licencee at this six month point to allow UR to check progress and compliance.

9. Timelines for introduction

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.

We agree with six months from the decision paper for industry to be compliant, alongside requested timelines for CCR and data sharing methodology development. We look forward to seeing the agreed industry procedures that should provide clarity on a number of points we have raised in this response.

10. Contact Information

To discuss our response in more detail, please contact:

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The Consumer Council consents to this response being published.