



Best Practice Framework Proposals

Code of Practice for Consumers in Vulnerable Circumstances

August 2023

Phoenix Energy (Phoenix)¹ welcomes the opportunity to comment on the Utility Regulator's (UR) proposed Code of Practice for Consumers in Vulnerable Circumstances (Code of Practice) as part of its Best Practice Framework (BPF) programme.

We are passionate about delivering the best possible standards of service for all consumers. That means taking the time to understand and cater for different consumer needs and often bespoke solutions specific to a consumer's circumstances on a case-by-case basis. We continually look at ways to improve and adjust our services to ensure positive outcomes for all consumers and we look forward to continuing to work closely with UR, the wider gas industry, and other regulated utilities to support the goals of UR's BPF programme.

Our mission is to provide an inclusive service to all consumers whilst focusing our attention on identifying those who are significantly less able to represent their interests when engaging with us. UR's BPF programme will supplement this by assuring consumers of regulated utilities, like NI's gas industry, are being afforded appropriate support and protections, particularly for those in vulnerable circumstances.

We do however recognise that our approach to consumer engagement will evolve in line with the needs of UR's BPF programme in the coming years, and indeed these proposals may require us to embrace additional responsibilities. As UR's BPF workstream was not dealt with through the GD23 Final Determination, we would welcome discussion with UR on how we will recover such costs associated with the resources, time and cost that will need to be dedicated to achieving, and thereafter maintaining, compliance with the new Code of Practice.

Our response to UR's specific questions is detailed below. We focus on our operational concerns with the principles and measures proposed by UR and have provided more detailed feedback on each directly to UR during the consultation period². We look forward to working alongside UR and industry to address these as part of the BPF programme.

¹ Phoenix Natural Gas Limited is now trading as Phoenix Energy. In this response the words "we", "our" and Phoenix are used interchangeably to refer to Phoenix Energy.

² Reference: meeting with UR of 25 July 2023.

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?

No comment.

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.

No comment.

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 would expect compliance with each principle and measure within the Code of Practice to be unique to each Licensee. Indeed, those companies who have the BSI/BS ISO accreditation will already be in full compliance. Detailed industry level procedures are not therefore required to set out how each industry (i.e., gas, electricity, and water) will comply with each principle and measure within the Code of Practice. This process would be time-consuming, subjective and of no benefit to consumers as Licensees will already be required to demonstrate their compliance with the Code of Practice via BSI/BS ISO accreditation or UR's proposed compliance reporting.

Instead, we would expect the industry procedures to solely set out the procedures and practices to be followed by each Licensee to establish and maintain the new industry level customer care registers. This process will require relevant Licensees to work with each other to deliver positive outcomes for consumers and therefore is an appropriate focus for the industry working groups. We would also anticipate that each industry working group will support continuous improvement through the sharing of best practice by each participant on how they are delivering the requirements of each measure within the Code of Practice.

Note we make comment on the introduction of new industry level customer care registers in response to Q6.

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

No comment.

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.

Note we make comment on the introduction of new industry level customer care registers in response to Q6 and on the monitoring and compliance arrangements in response to Q8. We do not therefore comment on their associated proposed measures here.

Measure 2.6 has introduced the need for a call back option. The need for such a facility was assessed by Phoenix prior to the introduction of our new phone system in 2021. Our average wait time is currently 15 seconds³ and therefore, no such consumer need has been identified to justify the additional cost, that would ultimately be borne by consumers, for developing and maintaining a call back facility. Other avenues for customer contact that are free of charge are provided by Phoenix. These include social media, email and our contact centres which are open until 7pm on business days for non-emergency calls and 24/7 for emergency calls. We would therefore request that the call back requirement is removed and replaced with a requirement for all companies to have considered the need for a call back option.

We would also question the requirement, under measure 4.2, for each customer care register to hold sufficient information on the needs or requirements of the domestic customers who are considered vulnerable due to their mental health status. Whilst adjustments can be made where a consumer shows signs or advises a utility of communication challenges or has limited awareness, it is not appropriate for a utility to diagnose a mental health issue or for this to be recorded on a database that is ultimately shared across DNOs and Suppliers. As mental health is already covered under the definition of vulnerability, we would request that it is removed as specific criteria from measure 4.2 and addressed as part of the wider consideration of how information on the specific needs and requirements of a vulnerable consumer are captured within the register.

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.

Introduction of a needs-based customer care register

In terms of the new industry level customer care register for gas, there will be no requirement for a top tier as this is designed for those relying on electricity for their healthcare needs. The gas customer care register will therefore be needs-based under UR's proposals and require consumers to select the services relevant to their specific needs.

As discussed at our meeting of 25 July 2023, Phoenix supports the introduction of a needs-based gas customer care register. However, we do not agree with UR's proposal to base this on a list of

³ Source: Phoenix 3-year average call handling monitoring statistics

protections and services that we provide. This step is unnecessary, undermines the whole concept of a wider vulnerability definition and would in fact limit our ability to provide an inclusive service to all consumers. Further detail is provided below.

Phoenix supports the introduction of a needs-based gas customer care register

Phoenix embedded a *Signs, Consider, Adjust* framework across its business to ensure all operatives are equipped to provide consumers with any help or assistance they need when accessing our services where reasonable to do so. *Special Consideration* notifications have also been developed to assist operatives when interacting with a consumer where the need for additional support has been identified. These enable us to ensure that service adjustments for a consumer are communicated to all colleagues and teams involved. While only a small change to our process, the development of these notifications means that consumers only need to tell us once about any adjustments they need, without having to detail them on any subsequent works at their home.

As discussed at our meeting of 25 July 2023, the *Special Consideration* notifications are broad and give Phoenix operatives flexibility to consider the individual and offer support appropriate to that individual's specific need. Being overly prescriptive on the *Special Consideration* categories or indeed the services offered by Phoenix would undermine our operatives' ability to think outside the box and would therefore limit the services that we offer consumers. Phoenix has found that this approach best supports each consumer and ensures we deliver a high-quality consumer experience in every interaction.

UR requires that needs-based categories are interoperable across the industries so that at a future date the registers can be amalgamated into one centrally held customer care register for all NI utilities. As UR also requires that it will approve the needs-based categories, it would be prudent for UR to consult on these to allow all Licensees to offer comment and for UR to determine what these should be. We believe that interoperability will be best facilitated by a body with full oversight of each Licensee's considerations and therefore UR is best placed to streamline this workstream. To expedite this, we would suggest that UR considers the proven *Special Consideration* notifications developed by Phoenix as the basis of its needs-based categories.

Phoenix does not agree with UR's proposal to limit the gas customer care register to a list of additional protections and services

We believe that UR's proposal to marry each needs-based category with an appropriate service undermines the whole concept of offering an inclusive service. Requiring Phoenix to define the services available to consumers undermines our ability to consider each consumer and each consumer's specific needs individually and to adjust our services accordingly. As discussed at our meeting of 25 July 2023, requiring a consumer to select the additional services they require:

- weakens the processes Phoenix already has in place to provide a tailor-made solution specific to the individual consumer's needs.

- calls into question the need for UR's definition of vulnerability if consumers are to select the additional services relevant to their specific need.
- undermines UR's approach to vulnerability which recognises that any consumer could be considered vulnerable given a particular set of circumstances, and that vulnerability is not necessarily a permanent characteristic, but rather a fluid state.

We therefore propose that the second tier of the customer care register is needs-based and applicable to consumers who are covered under the vulnerability definition. However, consumers should not be required to select the additional services they require as this will limit the services that we currently offer. We would suggest that UR considers the proven *Special Consideration* notifications developed by Phoenix as the blueprint for its needs-based customer care register.

Proposed timelines for delivery

We understand the benefits of a single NI utility customer care register, but the timelines proposed by UR to deliver the interim goal of new industry level customer care registers are unrealistic, particularly for the gas DNOs given that:

- UR recognises that gas DNOs have never been required to collate or hold a customer care register. This would require a purpose-built system, which consumers would ultimately pay for, to ensure the secure management and handling of sensitive personal data between the DNOs and Suppliers. Moving forward, would this system then become redundant if a single NI utility customer care register is introduced with consumers also bearing the cost of the new system? Phoenix would therefore suggest that appropriate consideration is given to the single NI utility register requirements before a bespoke system is developed for the gas industry to ensure that any system changes are delivered efficiently and cost-effectively.
- UR recognises the complexity of a single gas customer care register given that the gas distribution network is operated by three DNOs whereas the electricity and water networks are operated by a single DNO. This would mean that the gas customer care register holder would have information on consumers outside its Licensed Area whom it has no contract with. Phoenix would ask:
 - Has UR considered the data protection considerations? To expedite implementation, Phoenix would suggest that UR invites Licensees to the discussions it is having with the ICO so that they hear firsthand how industry level customer care registers could be facilitated.
 - Has UR considered consumer transparency i.e. let's say Phoenix is the customer care register holder – how appropriate would it be for Phoenix to contact a consumer in Dungannon every two years (as required under measure 4.3) to ensure they are receiving the necessary support when the consumer is not connected to its network and it has no relationship or contract with the consumer? Instead, we would suggest a process like that currently in place whereby the customer care register holder would ask each Supplier to review their list on a regular basis. This would avoid unnecessary confusion and may prove more cost effective if the required contacts can be made alongside another Supplier process.

- UR has confirmed that the means to recover the costs for the development of systems in price regulated companies will be dealt with through the applicable price controls. Indeed, the GD23 Final Determination states:

A number of GDNs stated that there should be a mechanism in place for cost recovery for work undertaken by them to deliver future consumer protection measures, which could result in changes to processes and systems and therefore generate a cost. They sought assurances from the Utility Regulator on this. Some of this work is currently still in development, whilst other areas have yet to commence and therefore it is difficult to place a quantum on it. We want to reassure the companies that recovery of cost as a result of such work and projects which are accepted in advance as appropriate by the Utility Regulator and in line with the delivery of future consumer protection development, which are necessarily and efficiently undertaken (such as but not limited to the Best Practice Framework) will be permitted. This will, of course, be subject to normal regulatory scrutiny and approval. The mechanism for this recovery will be through the 'uncertainty mechanism' for which there will be no de-minimis level (as is currently the case for this mechanism).⁴

Additional resource and the costs to develop, operate and maintain the system have not yet been identified. Such costs will become apparent as the requirements for the gas customer care register and data protection considerations develop. As it stands therefore, Phoenix does not have the resource to commence the project.

Our suggestion is that UR's requirement for Licensees to deliver the required measures under each of the ten principles when the licence condition is implemented remains *except* for those measures relating to the development of a new gas customer care register.

Rest assured that Phoenix is providing targeted support to consumers in vulnerable circumstances through its *Signs, Consider, Adjust* training programme in the interim:

- Our *Signs, Consider, Adjust* training programme ensures that our customer-facing teams are fully prepared to meet the needs of all customers and can offer any additional support that a customer with a vulnerability may require. This includes customers with transient and fixed vulnerabilities, such as communication barriers, hearing or sight impairments, mobility difficulties, temporary changes of personal circumstance and where limited awareness is observed.
- Complementing this, we have identified Vulnerability Champions within all customer facing departments of our business who can provide additional help and support for consumers and colleagues and ensure that any reasonable adjustments are made to provide the best possible experience for a vulnerable consumer any time they interact with us.

⁴ Paragraph 8.3 of the GD23 Final Determination Main Document

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.

We note that the licence modification proposals allow UR to modify the licence condition as it considers necessary or expedient. We would instead have expected the licence condition to allow UR to modify the *Code of Practice for Consumers in Vulnerable Circumstances*.

We would expect compliance with the Code of Practice to be unique to each Licensee. Indeed, those companies who have the BSI/BS ISO accreditation will already be in full compliance. We do not therefore believe that the procedures and practices to be followed by the Licensee to ensure compliance should be set out in the industry procedures. Instead, we would expect the industry procedures to set out the procedures and practices to be followed by each Licensee to establish and maintain the new industry level customer care registers.

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.

UR states that there will be reduced compliance reporting requirements for those companies who have the BSI/BS ISO accreditation and that the details will be clarified in the decision paper. Phoenix is working towards achieving accreditation in 2024. The BSI/BS ISO accreditation is a recognised and independent benchmark that will:

- provide UR with independent evidence that Phoenix is meeting the requirements of the Code of Practice and delivering for consumers in vulnerable circumstances;
- assure consumers that Phoenix is meeting its obligations in relation to the protection of consumers in vulnerable circumstances; and
- demonstrate Phoenix's commitment to a process of review and continuous improvement.

Phoenix would expect this accreditation to demonstrate full compliance with the Code of Practice. We do not believe any additional compliance monitoring or reporting is required for those companies who have the BSI/BS ISO accreditation.

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.

UR's proposed timelines are unrealistic given:

- the amount of work that is required to deliver a new industry level customer care register for gas;

- UR is still in discussions with the ICO about its proposals with any changes to be incorporated in its decision paper.

Phoenix would therefore ask that the timelines for implementation are given further consideration in the context of delivery of the new gas customer care register. Our suggestion is that UR's requirement for Licensees to deliver the required measures under each of the ten principles when the licence condition is implemented remains *except* for those measures relating to the development of a new gas customer care register. Note we make comment on the introduction of new industry level customer care registers in response to Q6.

To expedite implementation, Phoenix would suggest that UR invites Licensees to the discussions with the ICO so that they hear firsthand how an industry level customer care register could be facilitated.