



Notice and Consultation on Code of Practice for Consumers in Vulnerable Circumstances Licence Modifications for NI Water

30 May 2024



About the Utility Regulator

The Utility Regulator is the economic regulator for electricity, gas and water in Northern Ireland. We are the only multi-sectoral economic regulator in the UK covering both energy and water.

We are an independent non-ministerial government department and our main duty is to promote and protect the short- and long-term interests of consumers.

Our role is to make sure that the energy and water utility industries in Northern Ireland are regulated, and developed within ministerial policy, as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly.

We are based at Queens House in Belfast. The Chief Executive and two Executive Directors lead teams in each of the main functional areas in the organisation: CEO Office; Price Controls, Networks and Energy Futures; and Markets and Consumer Protection.



Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.



Our vision

To ensure value and sustainability in energy and water.



Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.



Abstract

The Utility Regulator published a new mandatory Code of Practice (CoP) for Consumers in Vulnerable Circumstances in March 2024 that covers domestic premises for electricity, gas and water. The decision paper included the implementation of a licence modification to ensure compliance with the CoP for Consumers in Vulnerable Circumstances. This paper sets out the proposed licence modifications for the water distribution licence holder.

As part of our ongoing commitment to being a best practice regulator, the relevance of NI Water's licence conditions continue to be reviewed in conjunction with the company. Through this ongoing process, we have identified some non-contentious licence modifications (in addition to the best practice framework changes) that could be made to help reduce the regulatory burden and better align the licence with current regulatory processes and requirements. These are also set out in this paper.

Audience

This licence modification consultation paper will be of interest to the water distribution company and organisations representing consumer interests.

Consumer impact

The objective of introducing the new CoP for Consumers in Vulnerable Circumstances is to address the current gaps in the service provision for utility consumers in vulnerable circumstances within NI and ensure the consumers are identified, adequately protected, and receive an appropriate level of support. The new CoP will also ensure that the support and protections offered to NI consumers are consistent, adequately promoted, and reflective of best practice exemplars seen in Great Britain (GB) and across other jurisdictions and regulated sectors.



Contents page

Executive Summary	1
1. Background	2
2. Licence Modifications	3
Overview.....	3
Proposed Licence Modification.....	3
NI Water Licence Modifications	4
Reasons	7
Effects	7
3. Next Steps	9
4. Appendices	11



Glossary

BPF	Best Practice Framework
CoP	Code of Practice
DNO	Distribution Network Operator
DPA	Data Protection Act 1998
FOIA	the Freedom of Information Act
GB	Great Britain
GDPR	General Data Protection Regulation
UR	Utility Regulator



Executive Summary

The Utility Regulator (UR) established the Best Practice Framework (BPF) programme to develop best practice principles and measures which utility suppliers and distribution network companies (DNO's) in Northern Ireland across electricity, gas and water must implement to better identify, support and protect consumers in vulnerable circumstances.

The main delivery mechanism for this programme is via a new mandatory Code of Practice (CoP) for Consumers in Vulnerable Circumstances. Through development of this CoP, we aim to address the gaps and inconsistencies in the regulatory frameworks between DNOs and suppliers and across regulated sectors in regard to the support and protections for consumers in vulnerable circumstances. The new CoP will also ensure that the support and protections offered to Northern Ireland consumers are consistent, adequately promoted, and reflective of best practice exemplars seen in Great Britain (GB) and across other jurisdictions and regulated sectors.

We consulted on the CoP for consumers in vulnerable circumstances in January 2022 and again in June 2023. We also offered industry and consumer groups the option of individual meetings to discuss their views on the development of the code.

The CoP for Consumers in Vulnerable Circumstances was finalised with our decision paper in March 2024.

We consider that the best approach to implementing the new CoP for Consumers in Vulnerable Circumstances is to place a licence condition on licensees to comply with the CoP. This approach has been fully supported by responses received through our consultation process.

Additionally, as part of our ongoing commitment to being a best practice regulator, the relevance of NI Water's licence conditions continue to be reviewed in conjunction with the company. Through this ongoing process, we have identified some non-contentious licence modifications (in addition to the best practice framework changes) that could be made to help reduce the regulatory burden and better align the licence with current regulatory processes and requirements. These are also set out in this paper.

We are required by law to consult and give notice to NI Water of our intention to introduce licence modifications. This paper and the separate legal notice meet that requirement.

1. Background

- 1.1 We consulted extensively as part of the development of the CoP for Consumers in Vulnerable Circumstances. An approach paper¹ was published in January 2022 followed by a consultation paper² in June 2023. We also offered industry and consumer groups the option of individual meetings to discuss their views on the development of the code.
- 1.2 Following consideration of the responses we published our final decisions in the CoP for Consumers in Vulnerable Circumstances Decision Paper³ on 27 March 2024. The decision paper set out that supplier and DNO licences (for electricity, gas and water) will be modified to include a condition to comply with the CoP for Consumers in Vulnerable Circumstances.
- 1.3 Before making any licence modification the UR is required to consult on its proposals under and in accordance with Article 20(2) of the Water and Sewerage Services (Northern Ireland) Order 2006.
- 1.4 This consultation is therefore issued under, and in accordance with, Article 20(2) of the Water and Sewerage Services Order and sets out the licence modifications we propose to make to NI Water Licence.
- 1.5 The reasons for and effect of the proposed modifications are set out in Section 2 of this paper. The legal notice required under Article 20(2) of the Water and Sewerage Services Order and the specific licence conditions for NI Water Licence is set out in a separate appendix to this paper.
- 1.6 The UR proposes to consult for a minimum period of 28 days from the publication date of this document. Any responses, representations or objections to this consultation will be considered prior to any decision.

¹ [UREGNI Best Practice Framework Programme: Proposed approach to delivery, content, monitoring and reporting Consultation Paper](#)

² [UREGNI Best Practice Framework Programme: Code of Practice for Consumers in Vulnerable Circumstances Consultation Paper](#)

³ [UREGNI Best Practice Framework Programme: Code of Practice for Consumers in Vulnerable Circumstances Decision Paper](#)

2. Licence Modifications

Overview

- 2.1 The objective of the CoP for Consumers in Vulnerable Circumstances is to better identify, support and protect consumers in vulnerable circumstances. To achieve compliance with this code, we are now consulting on a new licence condition NI Water Licence that requires compliance with the CoP for Consumers in Vulnerable Circumstances.
- 2.2 The licence condition places a requirement on the licensee to comply with the obligations of the CoP for Consumers in Vulnerable Circumstances. It also requires that the licensee procures that its agents or sub-contractors comply with the obligations of the CoP for Consumers in Vulnerable Circumstances.
- 2.3 The condition also implements a new wider definition of vulnerable/vulnerability which the licensee must apply to all vulnerability and vulnerable requirements throughout their licence and Codes of Practice. The new wider definition 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.
- 2.4 There is also provision with the new licence condition for the UR to modify the CoP for Consumers in Vulnerable Circumstances following consultation with stakeholders.
- 2.5 Additionally, as part of our ongoing commitment to being a best practice regulator, the relevance of NI Water's licence conditions continue to be reviewed in conjunction with the company. Through this ongoing process, we have identified some non-contentious licence modifications (in addition to the best practice framework changes) that could be made to help reduce the regulatory burden and better align the licence with current regulatory processes and requirements.
- 2.6 Article 20 of the Water and Sewerage Services (NI) Order 2006 permits UR to modify the conditions on the NIW licence if the company consent to the modifications. We have engaged with the company in respect of our proposed licence modifications and they have provided confirmation that they are content for us to proceed with the changes.

Proposed Licence Modification

- 2.7 The proposed new and modified licence conditions for NI Water licence are presented below. The numbered licence conditions, together with the legal

notice to modify a licence, is set out in separate appendices to this paper.

NI Water Licence Modifications

Proposed changes

- 2.8 We propose to amend NI Water licence to insert new condition to reflect the introduction of the CoP for Consumers in Vulnerable Circumstances.

Condition R: Code of Practice for Consumers in Vulnerable Circumstances

1. The arrangements in the Code of Practice for Consumers in Vulnerable Circumstances shall be applicable to persons occupying domestic premises.
2. The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for Consumers in Vulnerable Circumstances.
3. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for Consumer in Vulnerable Circumstances, as the Authority considers are necessary or expedient.
4. In this Condition:

Code of Practice for Consumers in Vulnerable Circumstances

means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for protecting consumers in vulnerable circumstances.

Vulnerable or Vulnerability

means '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'.

Agents or Subcontractors

means any person directly or indirectly authorised to represent the Licensee in its dealings with consumers or other Licensees.

- 2.9 We propose to amend condition F1 paragraph 5(1) of NI Water’s licence, which relates to the submission of the company’s procurement plan. This will be modified to require the company to submit the plan as part of its price control business plan, rather than every 18 months as currently stated. The amendment will also require the company to report any concerns, issues or irregularities regarding procurement to the Utility Regulator between submissions.
- 2.10 We propose to amend condition F paragraph 8.1 of NI Water’s licence, which relates to the submission of current costs accounting statements by the company. We do not currently use this information and so we are modifying the licence to relieve NI Water of the requirement to submit accounting statements in this format annually. However we have retained a degree of flexibility within the redraft which allows us to ask the company to submit Current Cost Accounts anytime in the future if required.
- 2.11 The affected licences and conditions are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"> Northern Ireland Water Limited Licence of Appointment as a Water and Sewerage Undertaker. 	<p>Introduction of new</p> <p>Condition R: Code of Practice for Consumers in Vulnerable Circumstances</p> <p>Condition F1 Paragraph 5(1)</p> <p><i>5 (1) The Appointee shall submit to the Authority a revised and updated Procurement Plan as part of its business plan submission for each price control period, covering in detail at least the duration of the current price control period. The Authority may request a Procurement Plan at any other time if it considers this appropriate. The Procurement Plan shall set out how the Appointee intends to comply with the primary obligations in paragraphs 2 to 4 of this</i></p>

	<p><i>Condition during the price control period, or any other period stipulated by the Authority. In addition, the company is required to proactively and transparently report any concerns, issues, irregularities or significant changes with regard to procurement to the Authority in a timely manner in the period between submissions.</i></p> <p>Condition F paragraph 8.1</p> <p><i>8.1 In addition to preparing accounting statements under paragraph 4, the Appointee shall, if requested by the Authority, prepare accounting statements, on the current cost basis in respect of the same period in accordance with such guidelines as are reasonable and appropriate for the purposes of this Condition as the Authority may from time to time, after consulting with such bodies as are reasonably representative of undertakers holding appointments made under Chapter I of Part III of the Act, or if none the Appointee, notify to the Appointee for the purposes of this paragraph.</i></p>
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- 2.12 The specific licence conditions and the required legal notices are set out in the separate appendix to this paper.

Reasons

- 2.13 We developed the CoP for Consumers in Vulnerable Circumstances, in an aim to address the gaps and inconsistencies in the regulatory frameworks between DNOs and Suppliers and across regulated sectors, in regard to the support and protections for consumers in vulnerable circumstances. The new CoP will also ensure that the support and protections offered to NI consumers are consistent, adequately promoted, and reflective of best practice exemplars seen in Great Britain (GB) and across other jurisdictions and regulated sectors.
- 2.14 We consider that the best approach to delivering the CoP is to place a licence condition on licensees to comply with the CoP for Consumers in Vulnerable Circumstances. This approach has been fully supported from the responses received through our consultation process.
- 2.15 We have proposed the additional licence modifications as the UR is committed to being a best practice regulator, which includes adopting a proportionate and targeted approach. As such, we continue to try to identify areas where the regulatory burden can be reduced, without any detrimental impact, to help minimise the workload and related costs to the benefit of all parties.
- 2.16 As the regulatory regime for 'water' has developed it has become clear that some of the regulatory returns stipulated in the licence are no longer required or may not be required as frequently.
- 2.17 Following representations made by NI Water, we previously granted derogations in relation to the need to submit a Procurement Plan every 18 months (Condition F1 Clause 5) and to submit Current Cost Accounts annually (Condition F8). In doing so, we noted our intention to review the associated licence conditions to determine whether permanent licence changes might be appropriate. We have now completed this review and decided that submission of the Procurement Plan as part of the company's price control submission will be sufficient to meet our regulatory needs and that we do not currently need it to submit Current Cost accounts. The licence changes set out above reflect the outworking of these decisions.

Effects

- 2.18 The Code of Practice for Consumers in Vulnerable Circumstances places obligations on NI Water through principles and measures to better identify, support and protect consumers in vulnerable circumstances. This will enhance consumer protection for all NI Water consumers.
- 2.19 The effect of the Procurement Plan and Current Cost accounting

modifications to NI Water's Licence are considered to be largely technical in nature and process related. They will reduce the regulatory burden on NI Water others⁴, in terms of regular reporting obligations and will better align the Licence with current regulatory processes and requirements. We have however retained the ability to request the Procurement Plan more frequently than stated and Current Cost Account submissions from the company, if this is deemed necessary and beneficial in the future. No impact on consumers is anticipated.

⁴ For example the UR, Reporter and Auditor.

3. Next Steps

- 3.1 This consultation seeks to gather stakeholder views on the appropriateness, accuracy and completeness of the Licence modifications set out in Section 2.
- 3.2 UR proposes to consult for a minimum period of 28 days from the publication date of this document. Any responses, representations or objections to this consultation will be considered prior to any decision.
- 3.3 Responses to this consultation paper should be submitted by 5pm on 27 June 2024. Responses should be sent to:

Rachel Strong
The Utility Regulator
Queens House
14 Queen Street Belfast
BT1 6ED
Email: Rachel.Strong@uregni.gov.uk
- 3.4 Our preference would be for responses to be submitted by e-mail. If you would prefer to provide us feedback in another format (for example via a meeting) please get in touch and we will try to facilitate this.
- 3.5 After consideration of the responses, we will publish our final modification decision stating our reasons and effects.
- 3.6 Individual respondents may ask for their responses (in whole or in part) not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, we will also ask respondents to supply the redacted version of the response that can be published.
- 3.7 As a public body and non-ministerial government department, we are required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain.
- 3.8 Note it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential.
- 3.9 It is therefore important that respondents take account of this and in particular, if asking us to treat responses as confidential, respondents should specify why they consider the information in question should be treated as such.
- 3.10 This paper is available in alternative formats such as audio, Braille etc. If an

alternative format is required, please contact us and we will be happy to assist.

4. Appendices

Appendix Number	Description
Appendix 1	NI Water Licence Modification Notice
Appendix 2	Code of Practice for Consumers in Vulnerable Circumstances