

Consumer Scotland response to Ofgem's Consumer Standards framework

May 2023

Please contact: grace.remmington@consumer.scot for any clarification or follow up discussion.

1. Who we are

Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, we are accountable to the Scottish Parliament.

The Act provides a definition of consumers which includes individual consumers and small businesses that purchase, use or receive products or services.

Our purpose is to improve outcomes for current and future consumers and our strategic objectives are:

- to enhance understanding and awareness of consumer issues by strengthening the evidence base
- to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors
- to enable the active participation of consumers in a fairer economy by improving access to information and support

2. Introduction

Consumer Scotland agrees with the high level aims of the consumer standards framework to ensure that protecting consumers remains the key priority of Ofgem. We strongly agree with the overarching aim of this work of improving standards of service in the retail market.

Furthermore, we welcome the focus on consumers in vulnerable circumstances, although there is a wider need to recognise that any consumer can become vulnerable due to short or longer-term changes in circumstances.

The consultation document is well-presented and we have been able to engage in the process without any issues. We would like to request that, in future, Ofgem considers longer consultation periods, especially when there are multiple consultations open in a short time period. This will allow us to ensure enough capacity to respond to the consultations with sufficient time for a detailed and thorough response.

Our direct evidence from both energy consumers in Scotland, and our partnership work with the agencies which support them, shows clearly that the consultation covers the majority of current customer service issues.

In our view, addressing these issues is critical for two reasons:

1. There is clear evidence that consumer experiences fall well below what should be expected. In some cases, this includes falling below what is currently required within the license conditions. Further, poor service levels are exacerbating consumer concerns about energy prices, especially when consumers are unable to reach suppliers when they are struggling to afford their bills. This can lead to increasing debt, financial vulnerability and negative impacts on consumer wellbeing.
2. Poor service undermines the trust in the energy sector and creates barriers to changes needed on the part of consumers to help the sector decarbonise.

We would like to highlight that there is evidence that problems with poor customer service in the energy retail market have been persistent and pre-date the energy crisis. For example, the Citizens Advice report 'The Lost Decade' tracked problems in relation to billing and metering over the ten years between 2005 and 2015, and these remain the most common source of complaints. This report highlighted the direct impacts on affected consumers, with particular detriment to consumers in vulnerable circumstances when they received large bills with high debt. It also highlighted the impact of an erosion of trust in the billing process which undermined the longer term aims of the energy market¹.

Consumer Scotland energy tracker

Our energy tracker provides new, additional evidence about the experiences of consumers in Scotland, which supports many of the findings of Ofgem and Citizens Advice data².

Overall, satisfaction with customer service standards is low. Our data shows that a significant proportion of consumers are not having a positive experience of the energy market.

Whilst our tracker found that consumers' experiences remained reasonably consistent during the 2022-23 winter period, there has been a decline since spring 2022. Our most recent spring 2023 wave of data found that:

- Forty-six per cent of consumers thought their supplier made it easy to contact them. This has declined from 51% in spring 2022. Nearly a quarter (24%) said that they did not think their supplier made it easy to contact them.
- Fifty-six per cent of consumers thought the language used in their bills was easy to understand – with 20% disagreeing that it was easy to understand.
- Only 35% of consumers would recommend the supplier they use to others, with 23% saying they would not recommend their supplier
- Only 42% of consumers thought their supplier treated them fairly in their dealings with them.
- Twenty-two per cent of consumers thought their supplier offered a good price for energy which has dropped from 33% in spring 2022.
- Fifty-four per cent agreed that their bills provided guidance on what to do if they are worried about paying their bills.

Scottish Energy Insights Coordination (SEIC) group

Over the last few months, Consumer Scotland has provided the secretariat to the Scottish Energy Insights Coordination (SEIC) group, a group of front line energy and social advice agencies. The [SEIC final report](#) is now available and we would like to take the opportunity to

signpost Ofgem colleagues to it as it is a relevant source of new evidence to inform this consultation.

The issues facing customers identified in the SEIC report are consistent with those outlined in the consultation. However, the report also highlights that there are wider impacts of the energy crisis on advice agencies. All agencies report considerably increased demand for their services, and while some have been able to scale up in response, this is not a course of action open to all. A large part of this increased demand is from customers who are seeking assistance on relatively straightforward retail issues, but who have simply been unable to contact their supplier directly.

It is important to acknowledge these hidden and externalised costs for the public sector, which are being borne by the advice sector, are a direct result of some suppliers not meeting the required standards for customer service.

Consumer Principles

The Consumer Principles are a set of principles developed by consumer organisations in the UK and internationally ³. Consumer Scotland use the Consumer Principles as a framework, alongside our evidence base, to analyse markets and assess issues from a consumer perspective.

We have highlighted where the Consumer Principles are relevant within our response to help frame the problems and solutions from the consumer perspective. These include:

- Access: Can people get the goods or services they need or want?
- Choice: Is there any?
- Safety: Are the goods or services dangerous to health or welfare?
- Information: Is it available, accurate and useful?
- Fairness: Are some or all consumers unfairly discriminated against?
- Representation: Do consumers have a say in who goods or services are provided?
- Redress: If things go wrong, is there a system for making them right?

3. Consumer Scotland response

Question 1: Do you agree with our assessment on what good looks like for the issues consumers are facing relating to the priority issues of contact ease and identification and support/advice for consumers struggling with their bills. Are there any issues missing?

Consumer Scotland partially agrees with Ofgem's assessment of what good looks like for issues facing consumers relating to contact ease and identification and support for those struggling with bills. We note Ofgem's advice to consumers⁴ – rightly – emphasises early contact with suppliers in the event that they have concerns, or are seeking debt advice.

We would like to highlight that the provision of good customer service is already priced into the price cap and any increased costs that are faced by suppliers for delivering good consumer service may be due to other factors. The low standards of consumer standards that have endured over the past decade (and which have worsened through the COVID and energy crises) are not a result of lack of price allowance in the price cap as these costs are already considered in setting the price cap.

a. Contact Ease

The inability to contact suppliers is a significant problem for consumers. Our evidence (mirroring data from other consumer groups and our SEIC group) is that many consumers are struggling to reach their supplier when they need to. It is not acceptable that some suppliers are failing to respond adequately to their customers' needs in these circumstances.

Clear communication which makes it easy for consumers to access information and reach their supplier is fundamental to ensuring appropriate and timely support. As our evidence shows, only 54% of consumers agreed that their bills provided guidance on what to do if they were worried about paying their bills. Fifty-six per cent thought the language on the bills was easy to understand – with 20% disagreeing. And only 46% agreed that their supplier made it easy to contact them if they needed to – with 1 in 4 disagreeing that their supplier made it easy.

Contact ease is not just about access to support from suppliers but also through the provision of information from suppliers. Clear communication through bills, written communication and online apps and accounts which meet accessibility and low literacy or low English proficiency are likely to be the first 'points of contact' or information interfaces for consumers. If these tools follow best practice guidelines, they may prevent some customers falling into payment difficulty, feel empowered to contact their supplier when they are facing difficulty with payments and have clarity on how to access support. It may also reduce the need for some customers to contact their supplier for simple queries, contributing to a backlog on phonelines.

b. Ensuring suppliers identify and provide tailored advice and support

We support the need for suppliers to identify and provide tailored support and advice. We would like to see an energy market in which suppliers proactively engage with customers to offer support and guidance when they are struggling with bills and prevent a worsening of their financial situation, preventing debt.

One SEIC member (a large advice agency) estimated that some 20% of all calls they received from consumers over winter 2022/23 were a result of suppliers not being contactable. This could be viewed as a form of indirect subsidy to poorer performing suppliers that places additional pressures on advice agencies, and which may in turn diminish their capacity to deliver effectively that the services for which they are primarily set up. A number of those aiming to deliver energy efficiency advice, or support in adopting low-carbon heating technologies, have increasingly been pulled in to deal with immediate pressures in relation to retail problems and debt.

We understand some suppliers have expressed concern about their costs rising to deal with increased demand. As recent market compliance reviews (MCRs) and the evidence in this consultation demonstrate, these are failures of some suppliers to deliver on existing commitments. The quantum of available advice time from each supplier, and not just the times of day that advice lines are open, is a critical issue.

While we are aware that some suppliers may have a view that their costs may increase if improvements to advice services are needed, it is important to be clear that customer service standards are already factored into the price cap calculation; and the costs of failure to meet

these standards is already effectively being externalised by suppliers to the public and voluntary sectors.

If there is a requirement on suppliers for signposting to third party agencies, in cases where they cannot offer tailored support, there needs to be recognition of the cost of meeting this demand among advice services. However, this may be offset by an increase in contact ease for consumers reducing demand on third-party advice organisations when consumers can resolve directly with suppliers.

c. Priority areas and the consumer principles: what would good look like

Across all priority areas, we would also like to promote the use of consumer principles, and where particular aspects of these may aid in addressing the issues of what good looks like:

- **Access:** good would be that people are able to get the goods and services that they want. This is both in terms of (a) access to their energy services (for example, where they may otherwise self-disconnect) and (b) access to good and timely customer service which meets their needs
- **Information:** good would look like accessible, accurate and useful information which means the consumer has everything they need to engage with their supplier. This includes the provision of different channels which enable consumers to choose the most appropriate contact method (e.g., bills, online accounts, apps etc). This could include ensuring all communication is clear and understandable and accounts for any accessibility needs.
- **Fairness:** good would be ensuring that no consumers are unfairly discriminated against. This means that people are not disadvantaged in contacting their supplier due to contact methods chosen, ability of suppliers to meet the needs of vulnerable consumers, and that customer service experience delivers good outcomes for all consumers. As an example, our data suggests that prepayment (PPM) consumers are more likely to report poor consumer standards than those on direct debit⁵. The Money and Mental Health Policy Institute also reports that 76% of those with a mental health problem found at least one communication channel with their

essential service provider difficult to use or distressing, particularly the telephone (with 41% reporting this as challenging or distressing)⁶.

- **Representation:** in the case of contact, this could mean that consumers know how and when it is appropriate to refer their case to Ombudsman Services: Energy (OS:E). also It may also include consumers being able to access third-party support with clear signposting from suppliers when appropriate (but not in lieu of good customer service)
- **Redress:** Good would be that if things go wrong, there is a system for making them right. Whilst referral to OS:E may occur in some cases, recent issues with forced PPM installation has highlighted that there isn't always a system for easy access to redress for consumers when they experience a poor outcome. Good would include very clear, timely and effective systems of redress from suppliers when things go wrong.

Question 2: Do you have any views on potential options to address priority issues and do you agree with the extra requirements we are proposing?

Consumer Scotland agrees with the priority customer service issues identified. From a principles-based approach, we would like to see an agreed principle of fairness (as outlined in license conditions on 'treating customers fairly') which would include an agreed standard of what fairness is.

a. Contact ease

We do not have a view on which of the proposed options on contact ease should be taken forward although we welcome standardisation of minimum requirements across all suppliers. We particularly welcome the stipulation of free phonelines for vulnerable consumers. However, we would like to highlight that the most important factor is whether consumer outcomes are improved, whichever option that is taken forward. This would mean that consumers feel and report that their supplier is easy to contact when needed, in a way that works for them.

The Money and Mental Health Policy Institute have highlighted the benefits of inclusive design for suppliers including: reducing strain on customer service teams due to fewer calls which also improves staff wellbeing, and reduction in debt, due to early engagement⁷.

b. Identification of consumers struggling with bills

We welcome the work done by Ofgem and UK Government to identify consumers struggling with bills through the Energy Price Guarantee, the MCR on PPMs, and also the work on future affordability models. However, our evidence indicates that the sector still has some way to go in terms of being able to effectively identify those in payment difficulty.

In terms of the future potential models of social tariff design, there is a wider need to make sure that any approach is holistic and sufficiently broad to identify all those likely to struggle with bills. This approach will also help to reduce the risk of financially vulnerable consumers from falling between the gaps. The social tariff is not likely to be a panacea for all affordability issues.

In our evidence we have identified that certain groups are more likely to report affordability challenges. These include disabled people, those on electric heating, PPM users and those paying by standard credit, low income consumers, women and younger people⁸. Therefore, the systems in place within the energy market to identify and then provide appropriate support to customers who may be struggling needs to be wider than the development of the social tariff consumers.

Additional to this, all suppliers need to ensure that they have effective systems in place that identify when people are struggling to pay and enable relevant action to be taken.

c. Tailored support and advice

As above, there is a need to ensure there is recognition of the costs to third party advice agencies as a result of suppliers not meeting their license conditions, and providing lower standards of customer service.

For suppliers, we would also like to flag the need to ensure that signposting to advice services, and provision of information on fuel poverty schemes such as Warm Home Discount, is given dependent on nation. A key part of this includes suppliers' training staff

on the differences between schemes in England, Wales and Scotland and providing clear and tailored information to staff and customers.

Most recently, stakeholders have reported to us that some energy customers in Scotland are being given the wrong advice on Warm Home Discount which is now a separate scheme in Scotland, requiring application for the Broader Group. Furthermore, there are additional schemes in Scotland, such as referring consumers to Home Energy Scotland (and Business Energy Scotland) who are able to administer additional funding (Warmer Homes Scotland and Home Energy Scotland loans) which may enable consumers to fund energy saving and energy efficiency measures, and low carbon technologies⁹.

d. Quality of service requirements

Ofgem could include an additional requirement on the quality of service that customers receive, in order to avoid unintended consequences of prioritising call wait times over call quality, and to ensure that consumers are receiving a high quality resolution to any issues they face. This includes a timely, compassionate and straightforward resolution to complaints – especially for those in vulnerable circumstances.

Consumer Scotland supports the outcomes that are presented in the chapter. However, we would recommend the need for specific attention (and possibly related metrics) to be given to the following:

- That ease of contact includes both average and longest wait times but also reflects that some consumers may call multiple times to get through or may approach a third-party advice agency as a means to contact their supplier.
- That accessibility across all consumer communications is fit for purpose and works for every consumer. Particularly, there is a need to ensure that there is best possible practice when it comes to consumers with additional or different accessibility needs. Note, Money and Mental Health have produced a [Best Practice Guide](#).
- The provision of industry-wide best practice for inclusive design of communication tools would be beneficial to ensure all suppliers are meeting the needs of their consumers and preventing confusion and inaccessible or difficult to understand bills. (Again, see Money and Mental Health Policy Institute's [Best Practice Guide](#).)

- Additional attention to be given to:
 - The support and value given to advice services, if they form part of the tailored support and advice signposting from suppliers
 - Identification of consumers in payment difficulty beyond the scope of future social tariff design – including support for those on PPMs and disabled people
 - Additional support needs for those on PPMs currently who frequently disconnect
- Additional training requirements for frontline staff to ensure tailored advice includes regional differences in the provision of energy support

Question 3: Do you have any evidence that suggests we should be considering additional and/or different rules beyond what we have proposed?

We would like to highlight that we have identified challenges to third party organisations being able to access suppliers to support their customers. This evidence has come through our stakeholder engagement, Ofgem’s own consumer group and charities call, and through our SEIC group.

Ofgem should examine whether suppliers should operate dedicated agency lines, to help with the resolution of complaints, and whether such an arrangement would support improved outcomes for consumers. There may also be a need to ensure standardised acceptance of third-party mandates by all suppliers.

Question 4: Do you agree with our proposed approach of introducing reputational incentives in our priority areas?

In principle Consumer Scotland supports the proposed approach of introducing reputation incentives in priority areas. In time, we would also support any expansion to wider areas of consumer standards. We note there is no current mention of customer service standards on Ofgem’s own advice page on switching¹⁰, and that this could be amended to signpost to the Citizens Advice league table data.

From a reputational perspective, we would like to flag that there could be the opportunity to consider how the league table data could be better used to provide information to consumers to inform their choice of supplier. For instance, it could be signposted to or embedded in other channels, such as USwitch, to aid choice made according to both price and reputation. Ofgem may also consider whether this information should also be displayed clearly on suppliers' own pages – along with the potential to include 'badges' or similar where a supplier delivers exceptional levels of customer service.

There is ample evidence over time, including from Ofgem's own research, that a significant number of consumers are unlikely to use switching supplier as a tool to achieve better outcomes, even where they experience poor customer service. Therefore, the impact of reputational performance should also be considered in terms of on wider benefits and risks this may present to suppliers beyond potential switching behaviour from consumers.

There may be an opportunity for Ofgem to observe real world consumer behaviour in the near future. There has been a long period of low switching and this may have generated some pent up demand amongst some consumers to switch supplier. The inclusion of specific questions in ongoing tracker surveys on the extent to which consumers are taking account of reputational issues during any switching process would allow this issue to be tested. Likewise, data on consumers' moves from suppliers with better customer service ratings towards those with poorer ratings but lower prices should also be monitored.

For all of the above, it will be important to examine demographic data, to ensure that switching is not further disadvantaging customers in vulnerable circumstances.

Finally, we would note that if higher switching volumes do emerge during the next 12 months, then this may put increased pressure on systems which have not been used for some time. It will be critical for consumer confidence that existing switching standards are delivered. Ofgem taking an action to monitor this will aid ensuring that higher switching behaviour does not compromise consumer standards.

The Scottish water sector has an ethical-business model of regulation which is based on consumer outcomes. There are likely to be learnings from the Scottish water sector in enabling positive consumer outcomes, in large part based on reputational incentives.

Question 5: Do you agree with what we have set out in the assessment chapter? Please provide supporting evidence with your views. For evidence regarding additional costs, please provide quantitative data.

We mostly agree with what is set out in the assessment chapter although, there is sufficient allowance within the price cap to account for the delivery of standards as outlined in the licence condition. Therefore, it would not be appropriate for the costs of delivering any enhanced customer service requirements to be passed on to consumers.

We are aware that some suppliers have suggested that improvements to customer service would require more investment. However, there is also clear evidence provided in the consultation – and consistent with stakeholder feedback in Scotland - that current standards of service vary considerably between suppliers, at a time when all are operating under the same price cap. To maintain a level playing field, any case for additional investment should only be considered to go beyond existing good practice.

As above, we would reiterate that suppliers with poorly performing customer services are effectively being subsidised at present by public and third sector advice services. The question on potential barriers to entry for new suppliers and lack of capital available for investment in improvements in smaller supplier is not supported by the data. Current Citizens Advice energy supplier ratings¹¹ show that smaller, newer suppliers are more likely to perform better than older, larger suppliers.

It is important that any additional requirements do not disadvantage different groups of consumers. Good consumer experiences need to be embedded across all consumer contact points with suppliers.

We support a requirement for suppliers to have third-party agency direct lines. However, to avoid a vicious circle of consumers approaching third parties as they cannot contact their supplier, it is essential that suppliers deliver low waiting times and a low number of consumer contact attempts across both individual consumers and third-parties, rather than a prioritisation of third-party lines over individual consumers.

In terms of Consumer Principles, there is a need to consider the following:

- **Access:** the current situation regarding low levels of good customer service in the energy industry means that people are not able to get the goods or services that they need – in terms of resolving any issues with their energy bills or potentially with their supply.
- **Fairness:** there is a concern around consumer fairness were consumers to face increased costs for suppliers to improve customer service to a sufficient requirement that should already be provided.

Question 6: Using the list of prospective data items we present in the monitoring chapter as a guide, what other additional data items could we aim to collect and from what data sources? Do you consider there are any challenges you may face when collecting/providing these? If so, please provide any supporting you have.

Consumer Scotland supports the data points proposed in the consultation. As above, we would suggest cross-market data be gathered to explore the extent to which consumers who switch take into account customer service performance.

Whilst we appreciate the need to streamline data that is collected, there are a few additional points that need to be considered:

- Whilst we support the inclusion of call wait time data item, including the 10% longest wait time, we would also support the inclusion of the number of times for calls to be answered and number of aborted calls. This is because waiting time targets/requirements may result in unintended consequences of calls being terminated to maintain a low average wait.
- Whether there is a method to capture the experience of those who do not choose to use the phone (such as those who prefer to use email or may be D/deaf or hard-of-hearing.)
- Whether there is a method of specific data collection to capture the experience of certain groups likely to experience barriers to communication such as D/deaf people and those who are visually impaired. This would allow suppliers and Ofgem to check there aren't any gaps in accessibility for certain consumers.

- Whether there is a method to carry out ongoing monitoring or spot checks on how easy consumers in vulnerable circumstances find it to contact their supplier
- Capturing the number of rejected arrangements for repayment would help to monitor removal of minimum repayments and the number of payment plans that customers are failing to meet. The latter would need more development were it to be taken forward.

We would support data on training of staff on debt management and vulnerability and would strongly support the inclusion of quality assurance of the training received within this collection such as whether they are British Standards Institute (BSI) or similar.

As above, we would express concern about any additional increases to the price cap as a result in increased requirements on consumer standards. The minimum standards that Ofgem are hoping to introduce represent the minimum that suppliers should already be providing.

Question 7: Do you have any comments on the factors that should be considered in determining whether to use principle-based or rule-based approach to setting standards?

Consumer Scotland would support a combination approach between principle and prescription and recognise the success in rolling out both ethical-business regulation in the Scottish water context and the work the Financial Conduct Authority are undertaking on the Consumer Duty. Consumer Scotland supports a principles-based approach which is underpinned by ensuring good outcomes for consumers – particularly one which integrates and reflects the Consumer Principles (see introduction).

The primary factor for determining the need for prescriptive and rules-based approach to standards is where there is risk of harm to consumer health, safety and wellbeing, if a certain standard is not met. Recent high-profile failures in relation to the forced fitting of PPMs illustrates the need for greater prescription and very clear rules and expectations for suppliers – as outlined in the Code of Practice for involuntary PPM. Consumer Scotland would suggest Ofgem's recent MCRs are a good starting point for reviewing areas of likely need for a rules-based approach, given the triggers needed for those MCRs.

Consumer Scotland would recommend a balance between a principles-based approach and prescription-based – with clear rules, guidance and regulation in cases which may result in harm to consumer health, safety and wellbeing.

Question 8: Do you agree with our early view of reputational based incentive options for winter 2023 and the potential incentive options for development over the longer-term?

Please provide explanations to support your responses.

Consumer Scotland agrees with the early view on reputational based incentives for winter 2023 and incentive options for development over the longer term. Consumer Scotland would like to see a move towards an outcomes framework in which suppliers are incentivised to achieve the best possible outcomes for consumers.

a. Reputational

We support a strengthening of reputational incentives for suppliers, potentially with some form of enhanced benchmarking of performance over the longer term. There needs to be clear and transparent reporting of data which may impact either the positive or negative perception of suppliers' reputations, which influences consumer choice and supplier business interest.

¹ Citizens Advice and Citizens Advice Scotland (2015) [The Lost Decade](#)

² Consumer Scotland (2023) Energy Tracker 3 (unpublished)

³ Citizens Advice Scotland (2018) [Consumer Principles](#)

⁴ [Get help if you can't afford your energy bills | Ofgem](#)

⁵ Consumer Scotland (2022) [Supplier perceptions briefing](#)

⁶ Money and Mental Health Institute (2021) [The State we're in: money and mental health in a time of crisis](#)

⁷ Money and Mental Health Institute (2022) [Urgent guidance for energy providers supporting customers with mental health problems](#)

⁸ Consumer Scotland (2022) [Consumer Spotlight: energy affordability](#)

⁹ Home Energy Scotland [Home Energy Scotland](#)

¹⁰ [Switch supplier or energy tariff | Ofgem](#)

¹¹ [Compare energy suppliers' customer service - Citizens Advice](#)