

# Working group: Operational Vulnerability Guidelines

## (1) Summary

As part of the transition process from energywatch to the new NCC and Consumer Direct, Ofgem hosted a workshop on the 18<sup>th</sup> of February to bring together representatives from the new NCC, energywatch, other consumer agencies, Consumer Direct, energy retailers and the network companies. Following on from earlier work conducted by the energywatch pathfinder group this workshop examined on the definition of vulnerability and the impact this would have on the new consumer empowerment arrangements.

This session generated a very productive discussion which produced a high-level consensus on how vulnerability might be defined under the new arrangements. It was agreed that a working level group be formed to look in detail at how the broad definition could be interpreted “on the ground” by Consumer Direct agents charged with assessing whether or not a caller might be vulnerable. The aim of this working group was therefore to produce recommendations and to report back to the workshop when it reconvenes on 31<sup>st</sup> March.

To assist the working group’s discussion this paper synthesises progress to date and highlights some issues that may be worthy of more detailed consideration at the working group level.

The next section provides some background on the key points that have been raised in the high level vulnerability discussions to date, section three then goes on to look at how an overall framework for the guidelines might work and substantive issues that could be considered within that framework.

## (2) Background

### NCC’s Remit

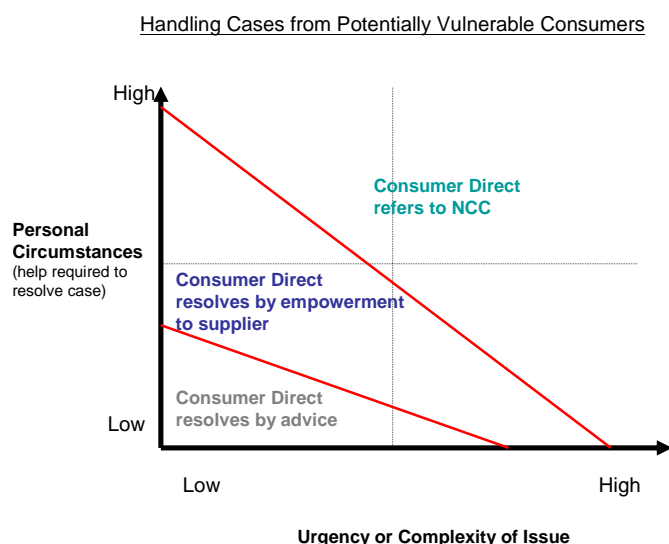
The new NCC has a duty under Section 13 of the Consumer, Estate Agents and Redress Act to deal with cases where the consumer has been disconnected or has been threatened with disconnection, including prepayment off-supply cases.

The new NCC also has powers under Section 12 to deal with cases received from vulnerable consumers. The CEAR Act defines a vulnerable consumer as being someone that cannot be reasonably expected to pursue their complaint by themselves

### High level definition of vulnerability

The energywatch Pathfinder group meeting in January and the Ofgem workshop on vulnerability held in February succeeded in building a high-level consensus around what constitutes vulnerability. In essence it has been that a consumer can be classified as vulnerable if they were not able to pursue their complaint with their supplier themselves, for one (or a combination of) the following three reasons.

- The urgency of their situation e.g. debt collection action or unmanageable payment arrangement
- Their personal circumstances, whereby the consumer is unable to deal with the matter themselves
- The complexity of the problem, which makes it difficult for the consumer to deal directly with their supplier and requires expert help to resolve their problem.



The relationship between these different factors is shown in the diagram to the right. This suggests that complaints should be referred to the new NCC by Consumer Direct, where the consumer is unable to resolve it themselves and where the provision of further advice/information or referral to the Redress Scheme or by empowerment to the supplier is not appropriate.

The February workshop also agreed that the implementation of this broad definition in practice would need to be more closely examined. The rest of this paper looks at ways in which it might be possible to take this high level definition and translate it into workable operational guidelines.

### **(3) Working level approaches to vulnerability**

#### **Establishing an approach**

A strong theme in the discussions on vulnerability so far, has been that the concept can be subjective. This has led to the suggestion that all cases should be evaluated on a case-by-case basis. Whilst this is certainly true, it clearly makes producing detailed operational guidelines more difficult.

Nonetheless guidelines in some form will be essential, both to ensure that all consumers get equal and consistent treatment and service and to ensure that Consumer Direct and the new NCC can make key decisions about resourcing the new empowerment arrangements.

An important question therefore is, to what extent can the broad definition of vulnerability be given above be systematised and operationalised? A fruitful starting point for the group, therefore, might be to ask **what form any guidelines should take and how prescriptive should they be to ensure they are a useful working document for both the new NCC and Consumer Direct?**

Following on from this some useful questions to consider might be;

- a. Should there be a brief written document for Consumer Direct front line agents along the lines of the protocols template circulated by Tom Ballard or the vulnerability checklists used by suppliers?
- b. What should be the content of the training for Consumer Direct and who could/should have input into this?
- c. Should there be a commitment to periodically adjust and review any guidelines, based on feedback from the NCC and Consumer Direct's front line experience?
- d. Does this need to be built into the timetable for the overall process?
- e. How can suppliers assist with this process?

#### **Detail points for consideration**

Once a framework has been established it should then be possible to look at the more fine-grained issues that could make up these guidelines. One approach to this might be to break down the issues encapsulated in the two axes on the chart above. The energywatch Pathfinder paper offers some useful approaches to this that may be applicable in a front line customer agent setting and could stimulate the discussion.

#### **Urgent Problems**

These cases are readily identifiable from the description given by the consumer and are likely to be covered by one of the following categories below.

- Debt Recovery Practices
- Disconnection/Forced PPM without proper process
- Problems relating to PPM cards
- Failure of supplier to provide special services to PSR customer
- Unsuitable debt repayment scheme
- PPM setting/use faults
- Failure of supplier to register PSR customer on request

## Personal Circumstances

Though there is no single set of circumstances which make a consumer vulnerable there might be an increased risk of vulnerability in the groups listed/conditions below.

- Consumers that have a complex issue which they have previously attempted to resolve unsuccessfully and which if the issue remains unresolved is likely to lead to a threat of disconnection.
- Those that have asked for help and/or indicated that they didn't understand advice given to them
- Consumers referred by an agency for example a CAB or Age Concern
- Older
- Chronically Ill
- Living alone
- Young
- Medical Condition
- Low income
- Disabled
- Not fluent in English
- Living in multiple occupancy
- Ethnic minority
- Literacy or communication difficulties
- Living in a remote area
- Refugee
- Financial difficulty
- Single parent
- Living in areas of multiple deprivation
- Recent major life change
- Severe weather

These personal circumstances need not necessarily make a customer vulnerable in all situations but may do so in others. It would seem sensible therefore to bear in mind the consumer's ability to pursue and resolve their complaint themselves when considering these factors.

## Complexity of the problem

Complex cases might include:

- Cases which cannot be resolved by the provision of advice or by empowerment and which are not suitable for referral to the redress scheme.
- Cases involving more than one supplier. For example where the consumer is unable to determine their supplier.
- Complex billing or supply issues where the customer does not possess the required industry knowledge to resolve the problem directly with the supplier.

Some of these issues have been touched on in other work and discussions. The breakdown given above is not meant to be exhaustive, nor overly prescriptive but rather is intended to provide a basis for discussion and to aid a more systematic approach which should be useful as part of an attempt to establish clear guidelines.