



Campaigning for Warm Homes

Ofgem Consultation on Proposals for a new Consumer Vulnerability Strategy

Comments from National Energy Action (NEA)

Background

NEA is a national charity working to ensure affordable energy for disadvantaged energy consumers. NEA seeks to promote this objective through a wide range of activities including:

- Policy analysis and development to inform NEA's campaigning work
- Rational and constructive dialogue with decision-makers including regulatory and consumer protection bodies, relevant Government Departments, the energy industry and local government
- Practical initiatives to test and demonstrate the type of energy efficiency programmes required to deliver affordable warmth
- Training and educational initiatives to improve knowledge and understanding of domestic energy efficiency among consumers and to ensure a skilled workforce across the energy efficiency industry.

Since fuel poverty results from a combination of inadequate heating and insulation standards, low household income and high energy costs, NEA seeks to advance and influence policy development across all of these areas. NEA recognises and values the role of Ofgem in these areas whether through action to eradicate consumer detriment and promote the interests of disadvantaged consumers as appropriate in the competitive market, or in regulatory oversight of Government-mandated policies to improve heating and insulation standards or targeted reductions in energy costs.

However, NEA believes that the authority and influence of the regulator can be used in a much more proactive manner to secure benefits for financially disadvantaged energy consumers and this view will inform our comments in response to this consultation.

Question 1: Do our Strategy themes provide an accurate reflection of the work Ofgem should be doing to help protect consumers in vulnerable positions?

NEA Comment: We note the extensive consumer protection infrastructure set out in the five themes of the regulator's Social Action Strategy and the emphasis on serving the needs of vulnerable energy consumers. We have previously commended Ofgem for its work to develop effective consumer protection systems and to maintain dialogue with external agencies on how these systems might be improved. NEA believes that the expanded themes, if rigorously policed and implemented, represent a robust and comprehensive framework of consumer protection.

NEA has consistently noted a key distinction between general consumer protection and that required in the context of essential services where inadequate provision and protections can pose threats to the health and welfare of the consumer. Clearly both electricity and gas (and arguably non-mains fuels) are classed as essential services and, as such, it is crucial that consumer protection be optimised and comprehensive. These criteria are even more compelling in considering the needs of vulnerable consumers.

NEA supports the concept of targeted and effective regulatory obligations and would expect to see greater convergence in specific areas such as the proportion of vulnerable consumers identified and included on Priority Services Registers.

We are less convinced by the suggestion that a best practice approach will: 'allow suppliers and distributors the freedom to innovate and differentiate.' We agree that positive innovation is to be welcomed, but believe that innovation must be a development of existing best practice and that ensuring such consistency across the industry should be the first priority.

NEA agrees that considerations of vulnerability should inform all aspects of the regulator's work and commends the undertaking that these considerations will be continued and built on in the future.

We recognise that the regulator may be perceived as a remote and inaccessible agency to consumers and that third-party engagement is required. Effective links between Ofgem and vulnerable consumers can only be achieved in practice through intermediaries. In this context we note DECC's Discussion Document 'Ensuring a better deal for energy consumers' which discusses the advice and information needs of vulnerable households. NEA would welcome the opportunity to discuss some of the issues around this initiative with Ofgem.

Theme 5 covers the regulator's intention to work collaboratively with other agencies to deliver benefits for vulnerable consumers. NEA is supportive of this approach but feels that Ofgem may be overly tentative in some areas where there is scope to be more interventionist. We note Ofgem's assertion that some areas of policy-making to address vulnerability are matters for other agencies – primarily Government. We understand this argument but, given Ofgem's status as the administering body for the Government's social and environmental schemes, believe that the regulator can adopt a stronger advocacy role in making constructive representations to Government in a policy-making capacity.

Finally, we would note and emphasise the comments from a recent review of provision for domestic consumers in Europe.¹ *It was concluded that the definition of a concept of vulnerable customers as required in the 3rd Package does not reveal the actual state of vulnerable consumer protection in a given CEER member country. In fact, the level of protection of vulnerable customers can ultimately only be assessed by examining the protective measures in place. Hence, the fact that a country does not have an explicit definition of a concept for vulnerable customers in its legal framework does not necessarily mean that vulnerable customers in such a country are less well protected than vulnerable customers in countries that establish a defined concept.*

Question 2: Do you agree with our proposed perspective on vulnerability? Are there other risk factors or features of the energy markets that could present issues that we have not covered?

NEA Comment: NEA agrees with Ofgem's broader understanding of vulnerability as a flexible concept rather than one that can readily be defined by statute. We recognise that there will be certain areas where 'vulnerability' can be more clearly defined as in cases of physical or mental impairment, but would agree with the more inclusive view that virtually anyone can be vulnerable at specific points in their life. We note some of the examples cited by Ofgem in a sympathetic critique of 'vulnerability' including at times of bereavement or relationship breakdown. However, it is necessary to distinguish between permanent characteristics that predispose to vulnerability and transient phases of life – not least that some can be observed and recorded whilst others will remain unidentified. We recognise that sympathetic treatment of temporarily vulnerable households is a commendable principle, but are unsure as to what this means in practice. Are the examples of bereavement or relationship breakdown intended to confer preferential treatment in areas such as debt-forgiveness, protection from disconnection or access to support through the Warm Home Discount?

¹ CEER Status Review of Customer and Retail Market Provisions for the 3rd Package as of 1 January 2012, CEER, 2012.

In the context of households struggling to meet their energy costs we would prefer to avoid the tensions resulting from any revival of the 'can't pay, won't pay' debate. All households experiencing difficulties with energy bills should be assumed to be vulnerable and offered the same level of protection in terms of debt recovery practice; we are not convinced that this is always the case.

Question 3: What is your view on whether the BSI Standard on inclusive services could provide a practical approach to adopting our perspective on vulnerability?

NEA Comment: In previous comments relating to the issue of vulnerability NEA has generally taken the view that Ofgem's work in this area has been commendable and that most problems resulted from inconsistent or inadequate practice on the part of the energy industry. Nevertheless we welcome all efforts to improve and strengthen services for vulnerable consumers and would see adoption of the principles set out in the relevant BSI Standard as positive action on the part of energy suppliers and distributors. However, clearly, adoption of these principles on a self-regulatory basis would have to be complemented by on-going regulatory guidance, exhortation and oversight on what was required of the energy industry.

Question 4: What are your views on other approaches suppliers and distributors could take to adopt our proposed perspective on vulnerability?

NEA Comment: As indicated above, we believe that the most important element in consumer protection lies in converting well-intentioned theory into consistent and quantifiable best practice. This is a recurring theme in NEA's comments on regulatory oversight of compliance with social obligations across the energy industry. Practical action on social obligations can only be as good as the implementation and monitoring of action.

Question 5: What are your views on our plans for developing a Consumer Vulnerability Network and are there additional organisations that we should engage?

NEA Comment: NEA recognises that Ofgem has developed effective working relationships with agencies at a national level but also that fostering contact at a grass-roots level may offer a different emphasis and perspective. This approach will also help clarify the role and responsibility of Ofgem in what can be a confusing landscape of consumer protection and one that will be made further complex with the replacement of Consumer Focus and the creation of the Regulated Industries Unit.

NEA would endorse the proposals to broaden Ofgem's communications network and recognition of the need for diversity and consumer-friendly approaches to communication in both form and content.

Question 6: What are your views on our proposed annual workplan for 2013/2014?

NEA Comment: Inevitably the detailed outline of Ofgem's workplan for 2013/2014 requires a more detailed response and consideration of some of the individual elements.

Targeted and effective regulatory obligations

Contrary to Ofgem's apparent view, we would see no circumstances where competition and self regulation could deliver adequate protection for vulnerable energy consumers. Consequently we see strong regulatory intervention as essential in this context.

The Priority Services Register

NEA supports the case for consistent terminology and provision across the industry. We understand that communications across the industry are not always effective and that information could be better shared to expand services for vulnerable households. We support Ofgem's proposed areas for review in relation to the Priority Services Register.

Securing compliance with social obligations

This has long been an area of concern for NEA. We value the content of Ofgem's published data but have consistently noted the regulator's perceived lack of urgency in addressing apparent significant inconsistencies in supplier practice in areas such as debt recovery.

In addition, the regulator will be aware that the new Energy Company Obligation (ECO) will result in a significant reduction in funding for fuel poverty programmes compared with previous practice. From next year, annual expenditure on these heating and insulation programmes will reduce from the 2010-2011 level of £1.1 billion to around £540 million. Even using this optimistic assumption of likely take up contained within the scheme impact assessment, the ECO policy will only serve a tiny proportion of the estimated four million English households currently in fuel poverty. Approximately 80% of these householders are classed as vulnerable.

Last year the Coalition Government cut red tape for small energy suppliers, exempting them from participation in CERT and CESP by raising the threshold for participation from 50,000 to 250,000 customers. This decision is reducing the level of resources that might be deployed to help low-income and vulnerable households reduce their energy costs or keep their homes warmer. Given the aforementioned shortfall, we would expect the

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regulator to rigorously enforce the revised thresholds for small energy suppliers who have in excess of 250,000 customers, to ensure that there is a transparent yearly analysis of customer numbers and to work with DECC to ensure that these smaller firms are contributing adequate and proportionate assistance to low-income households. On this issue, NEA would welcome further discussion with the Regulator.

Review of the Debt Assignment Protocol

Given the current (and probably future) scale of energy debt we would consider this issue to be of limited concern. Of course we are open to correction and will view published data on this issue with interest.

Network companies

Given that DNOs are subject to price controls and provide a monopoly service, this makes them well placed to deliver cost-effective social action and support for the alleviation of fuel poverty. We value Ofgem's work to engage the distribution industry in work on behalf of disadvantaged energy consumers. We endorse and support the regulator's continued work in this area.

In the context of extending mains gas network access to fuel-poor households, two observations should be made:

1. The success of extensions of the gas network to fuel-poor or vulnerable households is reliant on sufficient public funding being available for 'in-house' works.² These reductions, alongside the unlikely outcome of the provision of a heating measure (or associated central heating works) will reduce the likelihood that sufficient numbers of fuel-poor households will have the means to fund the necessary in-house works that facilitate the connection.
2. There is a gap in provision in instances where the total connection cost exceeds the maximum value of the Fuel Poor Voucher.

In the context of electricity network operators, it is right to highlight that the efficiency and cost effectiveness of future design, construction, maintenance, connections and operation of the distribution network will also play a key role in either mitigating or exacerbating fuel poverty levels. The current ED1 price control review therefore provides an excellent opportunity to consider an increased role to protect vulnerable customers

² As noted above, from next year, annual expenditure on programmes which can fund the heating of fuel poor households in England will reduce significantly. Under ECO obligated energy suppliers will also have full discretion to determine the extent of support they (or their contractors/agents) they will provide to households and the measures they choose to install. As discussed above, it is also unlikely off gas grid households will benefit from heating measures within the rural safeguard.

through innovative and efficient investment in the electricity network and wherever possible through links to the social obligations placed on GNOs and suppliers.

Promoting best practice amongst suppliers and distributors

Best practice in identifying vulnerability

We are not convinced that Ofgem has always sought to promote best practice across the energy industry. Of course the incidence of disconnection from gas and electricity supply has fallen significantly across all suppliers. However this is largely explained by the universal increase in the use of prepayment technologies. In other related areas such as debt recovery practice we still see large and inexplicable disparities. However, we welcome Ofgem's proposals for further work in identifying and promoting best practice in identifying and assisting vulnerable consumers, including the desire to embed this as a priority within the culture of the industry.

Taking account of vulnerability in our work and being informed by research and insight

Perspectives on vulnerability

We welcome and support Ofgem's more inclusive understanding of inherent and transient vulnerability and proposals to develop a more consistent and sympathetic understanding of vulnerability.

Consumer research

This represents essential work in ensuring that the compelling needs of financially disadvantaged and vulnerable households remain a priority for an agency that frequently focuses on economic regulation that is of limited relevance to households who cannot fully engage with the competitive market.

Innovating in the provision of advice and support

Energy Best Deal

We recognise that Energy Best Deal has been a success within its comparatively modest and small-scale ambitions. We suggest that genuine innovation in provision of advice and support would entail development of an infrastructure that could provide an expert, impartial and comprehensive service across:

- Supplier and tariff switching and the Warm Home Discount
- Fuel debt and payment methods

- More general money and budgeting advice including on benefits entitlement
- Advice on saving energy and reducing costs through the Green Deal and the Energy Company Obligation

We understand that energy suppliers incur disproportionate cost in identifying, and delivering heating and insulation measures to, the Super Priority Group and that these difficulties may continue when the Affordable Warmth programme becomes operational. We understand that some suppliers are driven to offer significant financial inducements in order to meet their social targets. We would see the creation of a national network of specialist advice services as immensely valuable in providing a comprehensive service for vulnerable households, and one that could be funded through ECO and/or Warm Home Discount Industry Initiatives with significant economic, social and environmental benefits.

Collective switching

It is accurate to note that concerns have been expressed that collective switching will be of minimal value to disengaged vulnerable households, although NEA would see a potential role for a number of agencies such as local authorities and credit unions helping resolve this situation. However this is an embryonic concept in the UK and we look forward to additional scrutiny and guidance from Ofgem on the potential of collective switching in reducing energy costs for vulnerable households.

Working with others to inform wider policy-making to address vulnerability

Energy policy

We note Ofgem's contrasting of external comments where some argue for additional regulatory input to energy policy with others insistent that the regulator should concentrate on areas of work where Ofgem can 'make a difference'. NEA does not see these views as being mutually exclusive; Ofgem can perform its core duties whilst simultaneously making strong and informed representations to Government on policy issues.

In illustration of Ofgem's useful participation in the policy debate we would refer to the regulator's previous support for fuel poverty programmes to be funded through direct taxation rather than through regressive levies on energy bills. We would also note the regulator's previous support of hypothecation of EU Emissions Trading Scheme revenues

to fund fuel poverty programmes.³ This latter issue has recently achieved a high profile through the work of the Energy Bill Revolution Campaign which argues for revenues from the EUETS and the Carbon Price Floor to be devoted to fuel poverty and wider domestic energy efficiency programmes.

In addition, current concerns do not simply focus on the regressive impact of uniform levies on consumer bills, or the lack of parity between social and environmental objectives, but on the inequitable access to the potential benefits of a range of Government policies. In short, NEA would welcome the regulator's support in ensuring that existing and future policies provide appropriate and equal access to existing or future Government programmes intended to help reduce a household's exposure to increasing energy costs.

Question 7: Do you believe that there are other areas that we should be specifically addressing in the workplan for 2013/2014?

NEA Comment: We believe that insufficient thought has been given to the implications of Welfare Reform and the introduction of Universal Benefit from 2013. Inevitably there will be unintended and unanticipated consequences as these changes to the benefits system are phased in. For example, NEA understands that local authorities are expressing concern over what happens when Community Care Grants and Crisis Loans are replaced by 'local assistance' and become their responsibility and believes that this area should form part of Ofgem's workplan in the coming year.

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³ Our Energy Challenge: Ofgem's response, May 2006.