



Call for Evidence on Protection for Consumers During Energy Decarbonisation

December 2022

About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we 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 through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.



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.

About the Consumer Council

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland. The Consumer Council has specific statutory duties in relation to energy, postal services, transport, and water and sewerage. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.

Consumer Principles

We use the eight consumer principles shown below as a framework that asks important questions about service design and delivery, consumer impact and how services should look and feel to the consumer, and that helps assess regulatory decisions from a consumer perspective.



The consumer principles also establish a common language that all stakeholders (Government, Regulator, Consumer Advisory Body, and the Company) can use to meaningfully and constructively engage with consumers to develop trust and a better understanding of the value for money a company can provide.

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1. Introduction & Background

Purpose of Paper

- 1.1 The purpose of this paper is to present a Call for Evidence (CfE) and an associated series of questions for stakeholders to consider, regarding how energy consumers will be protected during the transition to a decarbonised energy system. The Utility Regulator (UR) and Consumer Council NI (CCNI) have jointly produced this paper. This is in response to a request from the Department for Economy (DfE), and to fulfil one of the actions emerging from DfE's new Strategy for Achieving Net Zero Energy¹.
- 1.2 The UR and CCNI recognise the importance of the issues covered in this paper, and we look forward to receiving responses to our questions from a wide range of stakeholders, including consumers, industry participants and consumer representatives.

DfE's Energy Strategy

- 1.3 In December 2021 DfE published its Strategy for achieving Net Zero Energy, setting out changes to the energy system that are required to deliver Government commitments towards decarbonisation.
- 1.4 The Energy Strategy focuses on the delivery of five key principles:
- Placing you at the heart of our energy future;
 - Grow the green economy;
 - Do more with less;
 - Replace fossil fuels with renewable energy; and
 - Create a flexible, resilient and integrated energy system.
- 1.5 The energy transition to net zero requires a fundamental change to how energy is generated and supplied. This needs to progress in tandem with maintaining energy security at a cost that is affordable for end consumers.
- 1.6 Specifically on the first principle to keep consumers at the heart of energy thinking, DfE has committed to "*develop policies that enable and protect consumers through the energy transition.*" To deliver this principle, DfE has

¹ [Northern Ireland Energy Strategy 'Path to Net Zero Energy' | Department for the Economy \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk/energy-strategy)



identified two core objectives in the Energy Strategy to maintain a consumer centred approach to policy development throughout the transition:

- To keep people informed, empowered, supported and protected to enable them to transition to decarbonised solutions for all their energy needs.
- For households and businesses to have access to essential and affordable energy to enable a decent standard of living, health and competitiveness.

DfE Energy Strategy Action Plan

- 1.7 Since publishing the Energy Strategy, DfE have released an Action Plan document for 2022², which details the more specific work that both DfE and other stakeholders will take forward to progress the energy strategy objectives. There are 22 actions in total.
- 1.8 The first set of Actions within the Plan are designed to deliver the Placing You at the Heart of Our Energy Future. Action 3 signals the starting point in the development of policies that protect consumers through the energy transition with the requirement to ***“issue a call for evidence on protection for consumers during energy decarbonisation”***.
- 1.9 DfE have tasked UR and CCNI to draw up and issue this document as part of its 2022 Energy Strategy delivery action Plan. The aim of this Call for Evidence (CfE) is to assess the future need for the protection of energy consumers during the transition to energy decarbonisation, including a report documenting research on lessons learned in other jurisdictions, contained in the Appendix I to this document.
- 1.10 Assessing what protections consumers require during the transition is complex. There is a wide scope in terms of examples of what consumer protections may be needed. We have therefore tried to assist by producing the appended Lessons Learned Report (LLR), and by asking specific questions in this CfE document.
- 1.11 The UR and DfE intend that the CfE will establish an evidence base for developing and implementing relevant consumer protection policies in NI in the coming period.

² [Energy Strategy - Path to Net Zero Energy - Action Plan | Department for the Economy \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk)

Methodology / Timelines of potential overall project

1.12 Phase 1 (i.e. this current CfE phase):

- The UR, CCNI and DfE have collaborated to draft the CfE. Desk research has been undertaken to help identify what lessons can be learned from other jurisdictions (Appendix I).
- This CfE has been developed and published to meet the Action Plan Action 3 commitment to DfE for 2022.
- CCNI will also undertake deliberative consumer engagement post publication

1.13 Proposed Phase 2 (2023 & 2024); we have recommended to DfE that this should include:

- Stakeholder engagement sessions may take place prior to the response deadline for this CfE.
- The analysis of responses to the CfE. This will be used, along with stakeholder responses, to inform future phases of this project.
- Potential further research, if deemed necessary, based on the responses received to the CfE.
- Workshop(s) with the wider energy sector to support development of options for consultation on potential future protection framework.
- UR, CCNI and DfE in-depth collaboration to frame a policy consultation on proposed consumer protection frameworks.
- Consultation on proposed framework options issued.
- Potential workshops / discussion during consultation window as integral part of full consultation of the options.
- Decisions made based on the results of the options consultation.

1.14 Proposed Phase 3 (2024/25) we have recommended to DfE that this includes:

- Program for delivery of any new consumer protection frameworks to be established.
- Implementation of framework.

2. Purpose of Call for Evidence

2.1 As identified in Chapter 1, the purpose of this CfE is to collate views and information to help to establish the future need for the protection of energy consumers during the transition to a decarbonised energy system.

2.2 Given the high-level nature and scoping of this CfE, we are not seeking to provide detailed policy recommendations to DfE in this phase of work. Instead, we are building an evidence base to inform the policy development in the next phase of work in 2023. In this context, we are seeking as much information and engagement from stakeholders as possible.

Structure of CfE

2.3 To provide context for this CfE and to aid respondents to provide evidence we have considered:

- The current consumer protection landscape.
- Principles and goals for consumer protection in a more decarbonised energy world.
- Dimensions for future consumer protection:
 - 1) What **coverage and energy/sectors/technology** require inclusion within any future consumer protection arrangements (**Chapter 5**);
 - 2) Which **business practices which provide consumer outcomes should be covered** by any potential enhanced consumer protection framework (**Chapter 6**); and
 - 3) Which **groups of energy consumers** need covered by any new consumer protection policies (**Chapter 7**).

2.4 It is important to note that whilst we have identified the above three dimensions under which to consider different aspects of potential future consumer protections, NI consumers may also need general high level protections which sit over and above any specific protections identified through considering these three dimensions. We are calling these the ‘general protection principles’. These may apply to all NI consumers in relation to the energy market interactions or outcomes and provide an overarching protection umbrella.

2.5 This thinking links with the “principles-based” approach, which we discuss



further in Chapter 4.

- 2.6 Respondents to this CfE can consider providing evidence under the three dimensions noted above separately, or in relation to what general consumer protections or principles should exist for all NI energy consumers.
- 2.7 The remaining chapters of the CfE are set out under these headings described in 2.3 above.
- 2.8 The audience for this CfE is intentionally wide and includes:
 - a) Energy Consumers.
 - b) Wider energy sector participants, including technology providers and installers; suppliers; Network companies; Housing Associations and other industry representatives etc.
 - c) Wider consumer representative groups.



3. Current Consumer Protection Landscape

3.1 The consideration of potential future protection requirements should take account the current landscape of protection. There are a number of organisations which offer protections, some of which are laid down in general consumer law and others such as the ‘concurrency powers’ offered through the Competition Act which could be utilised by the organisations identified below. A high-level overview of these is provided below:

UR (Electricity, Gas, Water/Sewerage)	CCNI	Trading Standards	CMA
Licence Conditions place consumer protection related requirements on NI electricity, gas and water companies	Energy Order requirements including investigating complaints and ensuring legislation and regulation works effectively for consumers.	Ten coverage areas relevant to energy including Pricing, misleading information, and unfair contract terms.	Works so consumers can get a good deal when buying goods and services, and that businesses operate within the law.
Codes of Practice (for example including one for energy consumer Complaints handling, and one for energy company Marketing practices)	Particular regard for: Disabled or chronically sick; Consumers on low incomes: Rural consumers	Trading Standards do not investigate every complaint received and so have to prioritise work accordingly.	Works with statutory organisations and businesses to maintain effectiveness of markets and competition for consumers.
Price Controls to ensure prices are as low as possible	No statutory duty on home heating oil but issued Consumer Charter on oil with NI Oil Federation, This is a voluntary Code of Practice.	Decisions to act underpinned by information and evidence gathering.	Normally address breaches through mediation. Does not have powers to fine companies for non-compliance (unlike many other countries). Has ability to ask courts for enforcement.



Q1 Is this overview missing anything material – please provide evidence and/or examples of any other relevant current protections which should be considered?

Q2 How could the organisations outlined above effectively utilise existing consumer law as a toolkit for delivery of consumer protections in the context of energy transition?

Q3 How can partnership working be facilitated better between each of the organisations outlined above to deliver a more joined up approach to effective protection for energy consumers in the context of energy transition?

Q4 Are there specific identifiable gaps in the existing consumer protection frameworks to determine how future consumer protection frameworks could be improved providing more comprehensive coverage?

4. Principles and goals for consumer protection in a future decarbonised energy system

- 4.1 The energy transition describes not just a move to a more decarbonised energy model, but also one where energy will be delivered as a more digitalised and decentralised service. This means a shift from the current relatively simple linear model of selling energy by generator to market to energy supplier to end user, to an increased number of diverse interconnected range of stakeholders. It will bring changes, for example, more opportunities for “active” consumers; such as enabling energy needs to be paid for more as a subscription service rather than purchase of a commodity as a product.
- 4.2 In their paper “Networks for Net Zero”³ Northern Ireland Electricity Networks (NIEN) set out how participants will interact with the network Figure 1 below shows this.

Figure 1: Future Consumer Categories



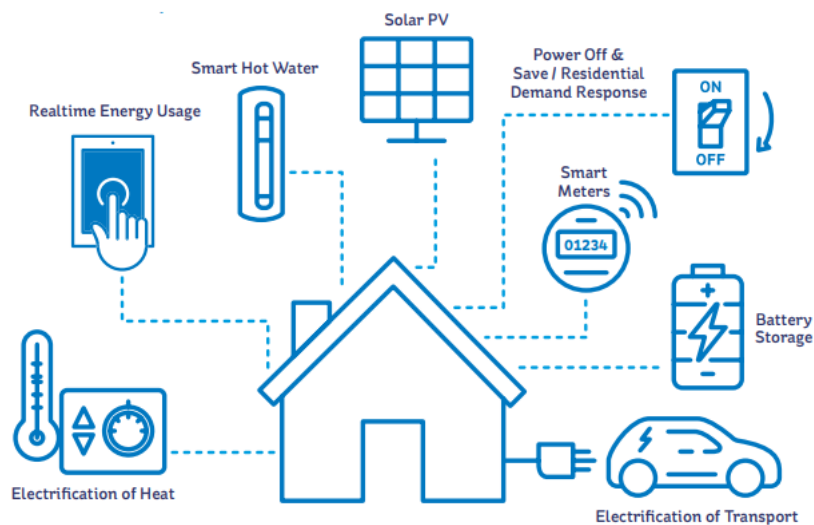
Source: NIEN

³ [networks-for-zero-net.aspx](https://www.nienetworks.co.uk/networks-for-zero-net.aspx) ([nienetworks.co.uk](https://www.nienetworks.co.uk))

- 4.3 Figure 2 set outs in greater detail how a ‘Passive Participant’ will interact the paper states that:

“This customer category includes smaller energy conscious customers (domestic or non-domestic) who have invested in ‘off the shelf’ LCTs⁴ to derive income from renewable energy schemes, for the purpose of reducing their overall costs or for social responsibility reasons.”

Figure 2: Passive Participants



Source: NIEN

- 4.4 It is crucial that the societal and technological changes consumers will experience as part of the transition provides benefits for them and addresses their individual needs, rather than delivered in a way that is exploitative or to their detriment. As highlighted above some consumers in NI will embrace these changes and become more “active” in the new energy systems; others will remain more “passive” but still rightly expect fair outcomes and reliable decarbonised energy. New consumer protections need to cater for all consumers, regardless of their future energy requirements and preferences. In parallel, how consumers are protected throughout this transition could require new approaches.
- 4.5 Consumers often benefit from a consumer protection landscape that includes a mixture of both “principles” of how they should be treated, and also more specific “rules” (such as those contained in licences or codes of practice).
- 4.6 This mixture of approaches to consumer protection will likely still be needed,

⁴ Low Carbon Technologies

but the balance may need to be able to readily change and adapt as the transition progresses. As identified throughout section 2 of the LLR, an objectives based approach to protection is one that is focussed on the goal of obtaining good outcomes for consumers through supplier adherence to a hybrid of principles and rules, rather than one based primarily on compliance with prescriptive rules at all times. Such a hybrid approach may be more effective and agile in meeting the needs of a diverse range of consumer groups and market participants in an ever changing energy system.

- 4.7 There may still need to be a hybrid of the two approaches that entails a move to overarching principles, but which retains some fundamental rules for all consumers, or detailed rules for specific customers in a hybrid approach. For example, some areas such as vulnerable consumers, or particular high risk or “crisis” events e.g. COVID-19 could require more prescriptive rules.
- 4.8 The type of principles which could be included, if such an approach were taken, could focus on broad desired outcomes, such as:
- Fair and understandable pricing and charges.
 - Clear, easy to access, accurate information and advice on energy products and services.
 - Consumer control over their own, protected, data so they can utilise it in addressing their own needs, not for a supplier to take advantage of a consumer or manipulate prices.
 - Access to independent complaints and redress for when things go wrong.
- 4.9 Although suppliers will have responsibility for achieving positive and fair outcomes for consumers, regulators and other consumer protection bodies will still likely need to develop clear and accessible guidance on how to apply principles. Adoption of “rules” such as minimum performance standards will still be required, but the provision of guidance may help enable suppliers go beyond set minimum requirements for consumers.
- 4.10 Below are two examples of the different types of principles that have been used in other jurisdictions. There is more detail on these and further examples in Section 2 of the LLR.

Example 1 Principles Based Approach: ASPIRE

The Council for European Regulators (CEER) along with the European Consumer Organisation (BEUC) has set out a vision for energy consumers named ASPIRE. These principles were developed from the perspective of

consumer protection in the context of the energy transition.

- **A**ffordability
- **S**implicity
- **P**rotection
- **I**nclusiveness
- **R**eliability
- **E**mpowerment

Example 2 Principles Based Approach: UN Guidelines for Consumer Protection

In 2016 the UN published Guidelines for Consumer Protection that sets out fundamental expectations of what consumers need. Through using these guidelines, the UN was able to set out principles for good business practice when conducting commercial activity with consumers. These are as follows:

- a) Fair and equitable treatment
- b) Commercial behaviour
- c) Disclosure and transparency
- d) Education and awareness raising
- e) Protection of privacy.
- f) Consumer complaints and disputes

Q5. What consumer harms are we trying to protect against in the context of a decarbonised energy system? Please provide evidence and/or examples

Q6. Which groups of market participants should the consumer protection be applied to in the context of a decarbonised energy system e.g. suppliers installers? Please provide evidence and/or examples

Q7. What are the benefits or the risks of delivering protections which are entirely prescriptive; entirely principles based; a hybrid of both prescriptive and principles?

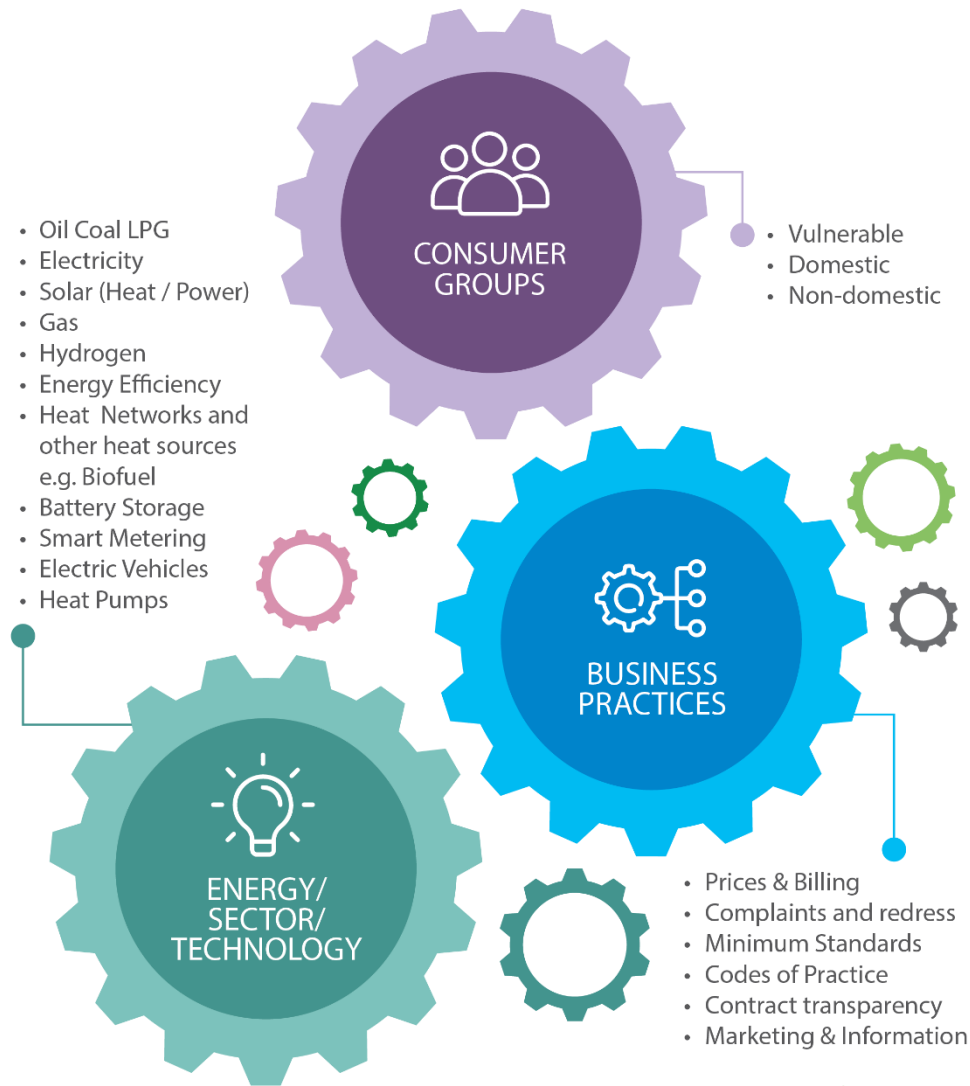
Q8. Are there other approaches that could be considered, instead of or alongside principles-based in an NI context? Please provide evidence and/or examples of alternatives?

Q9. Are there examples/evidence of principles or rules that are fundamental to consumer protection specifically in the context of energy transition?

5. Coverage of future consumer protection requirements – Technology; Sector; Heat

- 5.1 The level of protection afforded to consumers cannot be left to chance depending on who they are, what energy they are using and/or how they are using it. Arguably, all NI consumers should be provided with a suitable level of protection irrespective of their energy needs and requirements. This relates back to the ‘general protection principles’ highlighted in Chapter 2.
- 5.2 ***In the context of future consumer protections, an overall framework for every consumer of every fuel source is a good foundation starting point for consideration.*** However, it needs further disaggregation to obtain evidence and examples of what the potential future consumer protection requirements could incorporate.
- 5.3 To help formulate this, we will look at future requirements across three dimensions in the following chapters:
- 1) What ***coverage and energy/sectors/technology*** require inclusion within any future consumer protection arrangements (**Chapter 5**);
 - 2) What ***business practices which provide consumer outcomes should be covered*** by any potential enhanced consumer protection framework (**Chapter 6**); and
 - 3) Which ***groups of energy consumers*** need covered (**Chapter 7**).
- 5.4 The lessons learned from other jurisdictions, detailed in the LLR in Appendix I to this document, will also contribute to the evidence base.
- 5.5 The Figure 3 below sets out the different areas for consideration within a consumer protection framework.

Figure 3: Different Dimensions for Consideration within a Future Consumer Protection Framework



General protection principles ALL consumers may require regardless of what energy service they are using and how they are obtaining it.

- 5.6 The future model for delivery of energy to the end consumer will become a much more integrated system as decarbonisation progresses. All existing consumers have some protection (as outlined in Chapter 3), but as identified in the LLR in section 2.2 it is very likely that basic economy wide protections will not be enough given the importance of energy as an essential service to consumers.
- 5.7 This chapter examines the potential future requirements for consumer protection in the context of the first dimension of what coverage/sectors require inclusion. This could include such things as technology, sector and heating option chosen. Each individual area is covered in depth in the LLR whilst this chapter tries to capture the main messages and themes rather than covering all of the individual areas.
- 5.8 As the energy transition develops, there will be an increasingly diverse range of heating and power options available to consumers. These include, but are not limited to, such things as:
- Potential coverage of Oil: LPG; Solid Fuels
 - Solar and Battery Storage;
 - Heat Pumps;
 - Greater Energy Efficiency (less Heat and Power needed);
 - Hydrogen;
 - Heat Networks and other heat sources e.g. Biofuel
 - Smarter Metering; and
 - Electric Vehicles.
- 5.9 Northern Ireland consumers, whatever their heating and power options, already have some baseline protections in place via general consumer law enforced by Trading Standards. Energy consumers then have further specific protections when purchasing gas or electricity as the statutory regulated fuels currently in NI, while other energy sectors such as oil, coal and LPG contain no specific regulatory protection for the consumer. Less than 10% of households utilise coal and LPG, but approximately two-thirds of domestic

home heating comes from oil⁵.

- 5.10 Section 3.69 of the LLR identified that regulation has historically not been perceived as required for oil, LPG and solid fuel consumers, as they are not natural monopolies like gas heating or electricity.
- 5.11 However, as the CMA noted in their response to the CfE on the DfE energy Strategy⁶, the likely on-going prevalence of off-grid heating in Northern Ireland will result in off-grid consumers continuing to go without the same level of protection throughout the energy transition. The Energy Strategy was presented as the opportunity to address this and prevent off-grid consumers from being left behind.
- 5.12 For those consumers that will have an increase in choice of options for heating, there will likely be a corresponding increasing risk for these consumers, e.g. to be mis-sold heating products and services, or to pay unfair prices. It was identified in section 3.22 – 3.25 of the LLR that there is a complex certification landscape for traders and installers with numerous organisations including Microgeneration Certification Scheme (MCS), Home Insulation and Energy System Contractors Scheme, and the Renewable Energy Consumer Code (RECC), as well as the Government quality assurance endorsement scheme TrustMark.
- 5.13 Although there is evidence of best practice amongst these different bodies, a variety of codes and schemes has resulted in a lack of consistency in delivery of best practice.
- 5.14 More fundamentally, there is no obligation on traders or installers to register with any scheme. Consumers are not guaranteed protection if things go wrong due to mis-selling, nor do they have a guaranteed complaints process or guaranteed outcomes if the installer is not registered with TrustMark.
- 5.15 Different energy technologies have variation in design, technical performance, and amount of information and advice that consumers can avail from before any purchase. For example, a study undertaken by the consumer group BEUC concluded that consumer rights for Heat Pump consumers' needs upgrading to match those already existing for electricity consumers so they are not left behind during the transition.
- 5.16 Section 3.42 of the LLR identified how quality labels, when utilised correctly,

⁵ [House Condition Survey Main Report 2016 \(nihe.gov.uk\)](https://www.nihe.gov.uk/publications/house-condition-survey-main-report-2016)

⁶ [Energy Strategy - Call for Evidence | Department for the Economy \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk/publications/energy-strategy-call-for-evidence)

are able to raise the installation and product standards for consumers. Although adherence to technical standards reviewed was on a voluntary basis for receipt of government subsidy, it was found that quality labels that reflected a guaranteed minimum performance standard raised the image and uptake of heat pumps.

- 5.17 Section 3.48 of the LLR identified this includes when standards are being aligned with attempts to deliver energy through utilising a greater amount of indigenous energy sources and technologies (i.e. manufactured or sourced in NI or GB). It needs to be fully considered how consumers will be affected by reduced choice. This can lead to sub-optimal quality and increased price, and difficulty in finding products and services that are suitable and tailored to individual needs.
- 5.18 Energy Efficiency is an example of how when retrofitting homes, consumers will embark on a journey with consumer protection implications at each stage including: pre-contract; the contractual and installation delivery phase; and the post-contract phase.
- 5.19 The gaps identified in section 3.56 of the LLR on the delivery of retrofitting and delivery of energy efficiency installations related to:
- Consumer knowledge and provision of information to consumers;
 - Poor quality installation, installer behaviour and mis-leading information on site;
 - Vulnerability to cold calling and mis-selling; and
 - Awareness campaigns not reaching the most vulnerable.
- 5.20 Consumers could require end-to-end (or wraparound) support throughout their retrofitting journey. Quality assurance criteria therefore may need to contain requirements in relation to skill and competency of an installer; quality management; customer care; contractual arrangements; guarantees and warranties; and the requirement for a properly trained and skilled workforce.
- 5.21 Heat networks currently have significantly greater prevalence in GB compared with NI. Section 3.85 of the LLR identified that consumer dissatisfaction exists in GB in relation to extreme variation between price, reliability, and switching flexibility depending on which heat network a consumer can connect to. Similar issues have been identified to those with



other heat sources and technologies including complaints handling and customer support.

- 5.22 Hydrogen has not yet developed enough for there to be tangible lessons learned about it, but as with other technologies, consumer protection measures may need built into its initial developmental stages rather than after implementation.
- 5.23 BEIS has consulted on the types of protections that should be considered for hydrogen consumers. Although tailored to specifics for consumer participation of a hydrogen trail, the protections considered under this new framework (in Appendix VII of the LLR) cover the more general principles all heat consumers may need.
- 5.24 Consumer protections and regulation will likely need to become more agile and keep pace with ever evolving consumer uses, emerging energy technologies, and evolving consumer needs.

Q10. Please provide evidence, insights and/or examples of the types of protection which could be used for the various heat sources technologies and sectors and the advantages or disadvantages of these.

Q11. Please provide evidence, insights and/or examples in relation to whether fuel for heating such as oil, coal or LPG should be included within any new consumer protection framework?

Q12. What other insights on consumer protections in the transition do you think we should be considering?

6. Business Practices that may require enhanced consumer protections in future

6.1 The second dimension within future consumer protections is the type of business practices that lead to consumer outcomes/impacts, and how these can achieve outcomes that are good and fair for consumers. Business practices could include, but are not limited to, such things as:

- Pricing of energy products and services;
- Contracts and Billing;
- Marketing and Information;
- Complaints resolution and consumer redress; and
- Customer Service.

6.2 Each individual area identified above is covered in depth in the LLR whilst this chapter tries to capture the main messages and themes rather than covering all of the individual areas.

6.3 Different business practices and mechanisms (i.e. protections) that could deliver good consumer outcomes will mean differing levels of demand on resources, time requirements and costs. They will also involve varying levels of intervention. An example of a 'light touch' regulation could be voluntary industry arrangements/Registers, or the requirement to publish specific information. Whereas more direct regulation could be with regard to pricing or a mandatory Code of Practice on customer service.

6.4 There are potential actions (through their business practices) by energy businesses that can be identified as unfair including:

- Exploiting market power over certain consumer groups;
- Attempting to mislead or hide relevant information;
- Exploiting characteristics or behavioural biases which may impair the ability of some consumers to make well-informed decisions / not in their interest;
- Exploiting characteristics such as a lack of competition in some geographic locations which puts some consumers at a disadvantage

relative to others; and

- Exploiting market failures or behavioural biases to provide a service quality which does not meet reasonable expectations.

- 6.5 With regard to pricing, the more complex a pricing structure is the more likely additional work is required on the part of the consumer to calculate costs (as well as an increased chance of confusion).
- 6.6 The requirement for transparent, clear and accurate pricing information is something identified throughout the different principles based approaches to consumer protection as it enables consumers to determine which product is suitable for them, monitor their expenditure, and to make better and more sustainable decisions for themselves.
- 6.7 An “open book” approach to price transparency could also provide clarity on not just the total of a consumer bill, but the individual costs that make it up. This could in turn build consumer trust and allow for more informed decisions
- 6.8 A more dynamic future energy model will likely require a more agile structure of future pricing models, including a number of different ways for costs to find their way to the end consumer.
- 6.9 When considering tariff design, fairness for all consumers needs to be a key consideration. If price differentials are introduced for different classes of consumers e.g. through a social tariff, it needs to be considered which and in what ways different consumer groups are affected by such an approach.
- 6.10 Contracts are the primary place where suppliers can provide consumers with the transparent, simple to understand price plans. Transparency of contracts is therefore seen as key in other jurisdictions. Section 4.38 of the LLR details how the EU has set out a specific right for energy consumers to be provided with clear information.
- 6.11 Research undertaken by Energy UK found that there may be an over-reliance on the use of bills and annual statements in the UK as the primary means of engaging consumers to think about energy costs and consumption.
- 6.12 The report also made recommendations to simplify or narrow the principles relating to renewal of fixed term supply contracts and methods used to provide clear and intelligible information about contract terms and changes.
- 6.13 In addition to this, it proposed removing the specific information that suppliers must include in bills, statement of accounts and annual statements.

This could allow suppliers to provide customers with communication in line with more overarching principles that is tailored and specific to the individual consumer's needs.

- 6.14 ***The LLR repeatedly identified the need for clear, easy to access, accurate information and advice on energy products and services as a requirement.*** As the energy transition develops and a greater variety of products becomes available, the marketing of these products could become an increasingly difficult aspect to monitor and provide protection.
- 6.15 The UR previously made a decision that existing economy wide protections were not enough for consumers for essential services of electricity and gas, with the Marketing Code of Practice (MCOP) introduced as a result.
- 6.16 The MCOP for both domestic and small business consumers in NI is designed to protect electricity and gas consumers from inappropriate and misleading marketing techniques, facilitating them in making an informed decision on switching energy supplier. Given that the delivery model for energy is likely to substantially change existing Codes such as the MCOP may also require updating to cover the new practices and services that will be offered to energy consumers. It is also an example of something that may need to reflect a change of approach if a hybrid of high-level principles with a reduced number of specific rules that suppliers must follow were taken.
- 6.17 The Commissioner for Regulation of Utilities (CRU) in Ireland also has a CoP on Marketing and Advertising⁷. This is taken to cover any form of direct or indirect communication from suppliers or third parties acting on their behalf; that is intended to promote energy products, offers or deals; and to influence those to whom the information is addressed.
- 6.18 Suppliers in RoI must adopt a fair and transparent approach to the marketing and advertising of products and services, whether information is provided to customers in writing, verbally, or online.
- 6.19 In GB, consumers are able to avail of the Alternative Dispute Resolution (ADR) process for Consumer Dispute Regulations 2015 if an energy company fails to resolve a complaint through their own internal complaints handling processes. Ofgem is designated as the Competent Authority to certify ADR entities in the energy sector, and must be satisfied that any organisation meets set criteria to administer redress schemes (included in

⁷ [CRU19138-Electricity-and-Gas-Suppliers-Handbook-2019-.pdf](#)



footnote)⁸.

- 6.20 The independent organisation approved by Ofgem to handle disputes between customers and energy suppliers is the Energy Ombudsman. Energy consumers in GB are able to contact the Energy Ombudsman when they have already complained to their energy company and are still not happy with their decision or been given a decision within 8 weeks. They can mandate that a supplier re-examine a complaint as well force a supplier to provide a response. In some instances, they might even tell a supplier to provide financial compensation⁹.
- 6.21 Ombudsman Services are funded by the providers signed up to the ombudsman scheme. Providers pay a fee for each case reviewed (regardless of the outcome or the decision made). This acts as an incentive for companies to resolve issues with consumers before they reach the stage of proceeding to Ombudsman Services.
- 6.22 The purpose of a potential protection framework could be to safeguard consumers from harm that may occur when business practices designed to provide consumer benefit do not function correctly and instead provide a negative consumer outcome and experience. An example of this includes energy company responsiveness to consumers (e.g. call centres) and how a consumers query/issue is dealt with and how quickly, for example first point of contact resolution or the wait time. Protections in this area could include targets and KPIs which have to be met and reported on. Codes of Practice could be used to set minimum levels of service. Consideration of minimum levels of service would also need to include whether they are mandatory, voluntary, and how they could be reported upon for compliance.
- 6.23 Section 4.54 of the LLR found that that supply licences were viewed by suppliers as having grown in complexity, with code changes too costly. This presents an issue if they are potentially under continual change and form part of the licence requirements. Licence conditions may also need to be “future-proofed” due to the increasingly changing environment they are designed to operate within.
- 6.24 Moving to a principles based approach was identified as a way of reducing the size of the supply licence. This approach places greater emphasis on companies to take their own, proactive steps, to understand what is right for

⁸ [Approval criteria for redress schemes in the energy sector \(ofgem.gov.uk\)](https://www.ofgem.gov.uk)

⁹ [Energy Ombudsman: Here to help with gas & electricity complaints | Ombudsman Services \(ombudsman-services.org\)](https://www.ombudsman-services.org)



each consumer so they can deliver good outcomes.

Q13. Please provide evidence, insights and/or examples of what other type of business practices should be considered in relation to protection during transition?

Q14. Please provide evidence, insights and/or examples of what type of business practices should be prioritised for consumer protection in the context of transition.

Q15. Please provide any evidence, insights and/or examples of the optimal type of system for managing complaints and redress that could be employed for NI energy consumers.

7. Which Consumers to Protect

7.1 The third dimension, which we consider the future consumer protection requirements under, is in relation to **which consumers should be covered**. The protections (or some elements of them) could potentially cover all consumers, all domestic consumers, or those domestic consumers who are defined as vulnerable. Finally, it should be considered what protections should be in place for micro-businesses and other larger business consumers.

All consumers

7.2 The principles based approach to consumer protection and regulation could help identify the baseline protections that all consumers should have (the ‘general protection principles’ referred to in chapter 2). We are keen to hear stakeholder views on this, their potential content, coverage and implementation in a future NI consumer landscape.

All Domestic Consumers

7.3 Domestic consumer communications was identified in the LLR as an area where a “one-size-fits-all” approach may no longer be adequate (section 4.56). Domestic consumers require information that is understandable, and should be useful for them to make decisions that are appropriate to their own needs and circumstances.

7.4 However, the LLR also identified retrofitting homes as an area with “significant” consumer protection gaps (section 3.24). Suppliers and installers are able to adhere to a variety of different standards and codes. There is also no mandatory requirement to adhere to any code if there is no government grant scheme involved. Without standardisation, there is uneven application of best practices in achieving good and fair outcomes for domestic consumers.

7.5 The LLR also identified is that suppliers will likely need clarity and distinction between what must (or must not) be provided to their customers, and where room is provided for tailoring support and adopting their own approach to customer service (section 2.15).

Vulnerable consumers

7.6 As identified throughout section 5 of the LLR, vulnerability can be transient in

nature and arise for a variety of reasons.

- 7.7 Research has shown that certain consumer groups were identified at particular risk of being excluded from vulnerability considerations, perhaps as a direct result of their very circumstances that make them vulnerable, or as a result of a supplier's inability to provide an inclusive service. Rather than being seen as a "state" certain consumers exist within, vulnerability itself can be viewed as the risk to certain consumers of having difficulty in accessing or using an energy service or in dealing with communications.
- 7.8 There may be long standing issues, particularly relating to trust, that requires a cultural shift amongst consumers as well as change within industry to provide more proactive support.
- 7.9 Citizens Advice have also identified through evidence obtained in its own Lessons Learned Report that by a more inclusive approach for vulnerable consumers is something that would benefit all domestic consumers (section 5.12).

Non-Domestic consumers

- 7.10 Microbusinesses were identified in Section 5.10 of the LLR as particularly susceptible to poor outcomes with Third Party Intermediaries (TPIs) and brokers. Citizens Advice identified that TPIs can often use aggressive tactics to misrepresent or miss-sell products that create contractual issues for microbusinesses.
- 7.11 Ofgem does not licence TPIs but has set out voluntary principles showing how they should operate. This code includes honesty, respect, accuracy, transparency, and customer-focussed professional approach.
- 7.12 Ofgem also have proposed an approach to protecting microbusinesses through:
- Provision of informed choice;
 - Extensions and cooling-off periods for contracts;
 - Transparency;
 - Dispute resolution and principles of conduct in relation to brokers; and
 - A ban on suppliers requiring notice of a microbusinesses intent to switch.

- 7.13 Energy contracts for businesses can be up to five years in length, with businesses required to know their contract end date and window for switching. Failing to negotiate a new contract can result in businesses on expensive default tariffs if they do not take action.
- 7.14 There are currently have a number of licence conditions and CoPs which offer specific protection for small business consumers some of which are similar to those for domestic consumers. Examples of these include notice of contract end and prohibition of ‘rollover’ contracts as well as Marketing Code of Practice.
- 7.15 Industrial and Commercial consumers (I&C) can use facilities and equipment at any time of day or operate business and public sector buildings and services. Such consumers therefore have specific energy requirements that may prevent them from being able to reduce or adapt their demand. I&C consumers do not currently have the same level of regulatory protection that domestic and small business consumers do due to their size and level of consumption.
- 7.16 The public sector, which requires energy to provide services that society depends upon, may also face specific challenges when purchasing, obtaining, and utilising energy. Difficulty in obtaining or a reduction in access to energy could result in the provision of skeleton services. The public sector may also need to contingency plan if there are issues with procurement for either global or local reasons. With the scale of central and local government contracts, energy may be purchased using a framework with a potentially limited number of potential suppliers. Included within the 2022 Energy Strategy Action Plan is the requirement for delivery of additional funding of central government energy efficiency projects. As the transition develops, the public sector estate will be at the forefront of making purchasing decisions to reduce its own energy usage.
- 7.17 The Voluntary and Community sector, which also provides vital services, may face its own particular challenges. Organisations within this sector may be at risk of not being able to obtain and utilise energy in a cost effective way precisely as a result of not having the same purchasing power as larger or more well-resourced organisations. Even large-scale third sector bodies may have a primary focus elsewhere rather than having capacity for prioritising energy specific matters. Moreover, many third sector organisations are housed in leased or rented premises which can mean energy costs are passed on to them as tenants, with no incentive for making energy efficiency purchasing decisions.



- 7.18 Once the energy sources, sector and technology, business practices and consumer types for coverage are established, it needs considered in what way these different protection areas should be prioritised.

Q16. Please provide evidence, insights and/or examples of potential content, coverage and implementation of 'general protection principles' in a future NI consumer landscape.

Q17. Please provide evidence, insights and/or examples as to what additional protections domestic consumers will likely need as the energy transition develops?

Q18. Please provide evidence, insights and/or examples as to what additional protections vulnerable consumers will likely need as the energy transition develops?

Q19. Please provide evidence, insights and/or examples as to what additional protections microbusinesses will likely need as the energy transition develops?

Q20. Please provide evidence, insights and/or examples as to what additional protections Industrial and Commercial consumers will likely need as the energy transition develops?

Q21. Please provide evidence, insights and/or examples as to what additional protections Public Sector consumers will likely need as the energy transition develops?

Q22. Please provide evidence, insights and/or examples as to what additional protections Voluntary and Community Sector consumers will likely need as the energy transition develops?



Q23. When considering what consumers and protection areas may need covered, please provide evidence, insights and/or examples of what protection gaps should be prioritised, and how should this prioritisation be undertaken?



8. Next Steps

- 8.1 As stated, the UR and CCNI welcome responses to the questions from a wide range of stakeholders:
- d) Energy Consumers themselves.
 - e) Wider energy sector participants, including technology providers and installers; suppliers; Network companies; Housing Associations and other industry representatives etc.
 - f) Wider consumer representative groups
- 8.2 This CfE is being issued in tandem with deliberative consumer engagement being undertaken to develop consumer insight into, and raise questions on, Energy Strategy themes.
- 8.3 Stakeholder engagement sessions will also take place on CfE issues and questions prior to the response deadline for this CfE.
- 8.4 UR will analyse responses alongside the stakeholder engagement sessions to provide DfE with evidence to enable development of decarbonisation policies that include robust protection for consumers.
- 8.5 All responses will be treated as confidential. Responses should be forwarded to reach the UR on or before 01 March 2023 to:

Liam Gault
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Liam.Gault@uregni.gov.uk



Appendix I

Lessons Learned in Other Jurisdictions on Consumer Protections in the Energy Transition