



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

Literature Review for UR/CCNI Call for
Evidence on future framework for
Consumer Protection during Energy
Transition

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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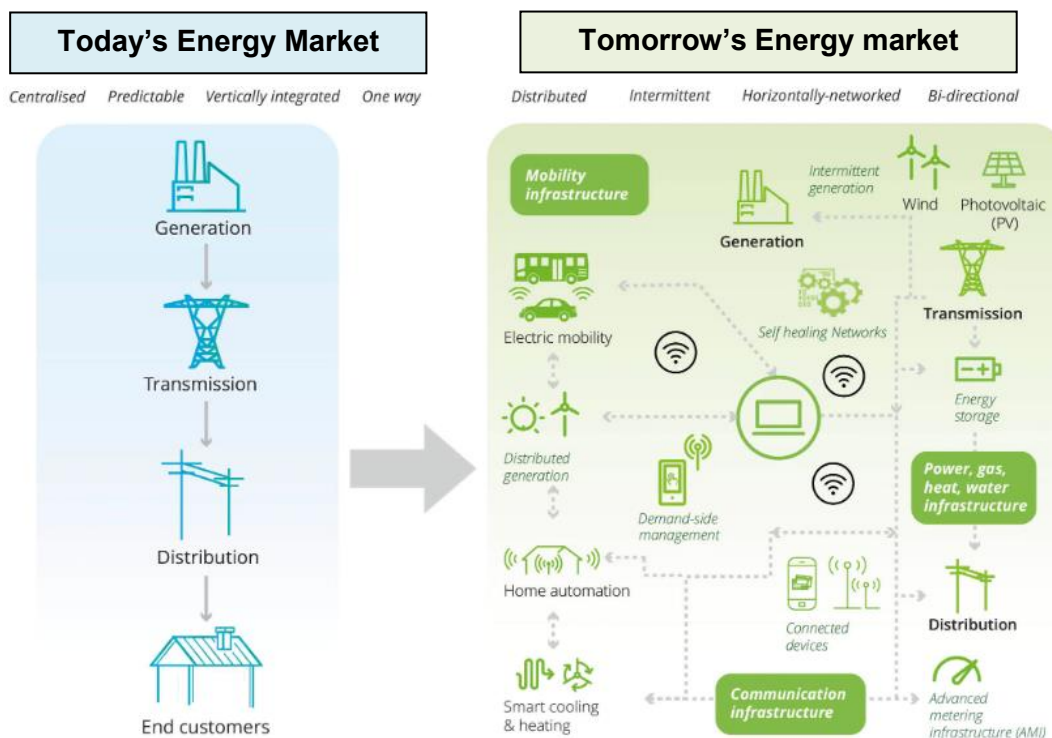
1. Introduction

- 1.1 In December 2021 the Northern Ireland Department for Economy published its Strategy for achieving Net Zero Energy¹. This Strategy sets out the changes needed to the energy system if consumers are to be provided with affordable energy moving forward.
- 1.2 However, the context for delivery of future energy is one whereby it is now accepted that the planet is already experiencing the early impacts of climate change. Governments around the world are pursuing an agenda of mitigating the consequences of climate change by taking steps to limit future carbon emissions from energy usage. Northern Ireland must play its part in obtaining secure and affordable energy from clean, renewable sources that will facilitate the delivery of net zero carbon emissions.
- 1.3 Moreover, accessible and affordable energy generated from renewable and low carbon sources must be managed in a way that an ever increasing number of energy market stakeholders are able to meet future consumer demand. This will entail the redevelopment of infrastructure for delivery of energy to meet ever changing energy needs. Trying to balance the requirement for energy security, with affordability and environmental sustainability is known as the energy trilemma.²
- 1.4 The current system for delivery of fossil fuels as a product to the end user is therefore transitioning to one whereby energy generated from cleaner sources is provided as part of an overall heat, power, and transport set of services. The image below represents the move to this new business model known as “Energy as a Service”³.

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

² [GLOBE-Net New World Energy Trilemma Report Released - GLOBE-Net](#)

³ [Energy as a Service \(EaaS\) Report | Deloitte UK](#)



Source: Deloitte

- 1.5 This transition does not mean the fundamental purpose of a regulator in promoting the interests of energy consumers with regards to price and quality of service will change. However, the context in which energy customers will be protected will become more complex, de-centralised and have many more “touch points” between consumers and the energy sectors. An example identified in the BEIS Energy Retail Market Strategy for the 2020s⁴ is the movement of the retail market of a traditional flat standing charge for a product that exists today will move to a future model involving everything from smart meters and appliances, half-hourly settlement, self-generation and storage, and electric vehicles.
- 1.6 A greater spectrum of consumers will begin to emerge, ranging from the proactive engaged consumer availing of new services, to more passive consumers who will continue to need protection from risks of unfair pricing and being left behind in the transition. Those consumers that are not engaged will still need to be led through the journey towards products and services that contribute to decarbonisation, and receive appropriate levels of protection no matter how they obtain their energy requirements.
- 1.7 It is apparent regulators will need to become more adaptive to achieve these

⁴ [Energy Retail Market Strategy for the 2020s \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/671111/energy-retail-market-strategy-2020s.pdf)

aims. The 2022-23 Utility Regulator Forward Work Programme⁵ identifies:

“There is every prospect that societal change, technological developments and a more empowered consumer will prompt regulators to adjust their approach. The challenge for regulators is about staying ahead of consumer expectations and anticipating the changes that are required. In practice this may mean that regulators are less prescriptive, more pragmatic, focussed more on principles and outcomes, adopt new approaches to accommodate innovation and a more diverse stakeholder environment.”

- 1.8 While the energy transition may currently be in its nascent stages, regulators and industry will need to begin this process of adaptation and redevelopment of consumer protection today.
- 1.9 This report seeks to examine what aspects of this redevelopment have so far been undertaken in other jurisdictions to determine what lessons may be learned on what protections consumers will need moving forward and how these may be best implemented.
- 1.10 The purpose is to provide insight into what the short and longer term considerations may be within the development of a robust and adaptable energy consumer protection framework during decarbonisation. This will inform the Call for Evidence⁶ to be issued alongside this report in 2022 that will assess the future need for the protection of energy consumers during the transition to energy decarbonisation.

⁵ [Forward Work Programme 2022-23 published | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/forward-work-programme-2022-23)

⁶ This Call for Evidence is being issued as per Action 3 of the DfE Energy Strategy Action Plan 2022.

2. Consumer Protection Principles for a Future Energy World

2.1 In 2016, the United Nations set out Guidelines for Consumer Protection⁷ that are applicable to the wider economy. This example of guidelines contains the fundamental and “legitimate” expectations of what all consumers may need:

- i. Access by consumers to essential goods and services;
- ii. The protection of vulnerable and disadvantaged consumers;
- iii. The protection of consumer from hazards to health and safety;
- iv. The promotion and protection of the economic interests of consumers;
- v. Access by consumers to adequate information to enable them to make informed choices according to individual wishes and needs;
- vi. Consumer education, including education on the environmental, social and economic consequences of consumer choice;
- vii. Availability of effective consumer dispute resolution and redress;
- viii. Freedom to form consumer and relevant groups or organisations and the opportunity of such organisations to present their views in decision-making processes affecting them;
- ix. The promotion of sustainable consumption patterns;
- x. A level of protection for consumer using electronic commerce that is not less than that afforded in other forms of commerce;
- xi. The protection of consumer privacy and the global free flow of information.

2.2 The UN document builds on these consumer needs by setting out the principles that establish benchmarks for good business practice for conducting commercial activity with consumers (a more detailed description of each is contained in Appendix I):

- a) Fair and equitable treatment;
- b) Commercial behaviour;

⁷ [United Nations Guidelines for Consumer Protection \(unctad.org\)](https://unctad.org/en/publications-and-publications/unctad-database/2016/un-guidelines-for-consumer-protection.aspx)

- c) Disclosure and transparency;
- d) Education and awareness raising;
- e) Protection of privacy;
- f) Consumer complaints and disputes.

2.3 However the question arises as to how to relate these principles more directly to the particular challenges in achieving fair outcomes for energy consumers. Moreover, overcoming the protection challenges faced within energy will require consumers themselves to engage in the transition. They must, as the new DFE Energy Strategy has identified, be “**enabled**” as well as “**protected**”.

2.4 A report prepared by Dr Christopher Decker for the Australian Energy Market Commission on *Consumer Protection Frameworks For New Energy Products And Services*⁸ states that in adopting an approach of orienting away from ‘supplier obligation’ and towards ‘consumer outcomes’, five core principles that could be used to *guide* the energy transition based on key areas of consumer risk are:

- i. Consumers should have access to at least one source of reliable energy supply;
- ii. Consumer should have choice, and ability to choose another supplier / source of energy and to switch supplier without undue impediments;
- iii. Consumer should have access to sufficient, accurate and timely information;
- iv. Vulnerable consumer circumstances (needs) should be adequately taken into account in supply arrangements; and
- v. Consumers should have access to low cost and accessible dispute resolution mechanisms (redress).

2.5 Although regulators will need to allow space within the transition for innovation (the transition cannot occur without it), this should not be at the expense of consumer’s rightful need for protection. It is identified in the 2020 Citizens Advice Report *Zero Sum*⁹, “*whether changes are driven by policy, technology, logistics or consumer choice, it’s essential that consumer protections form the foundation of the future energy market.*” While taking

⁸ [Consultant final report - Consumer Protection frameworks \(aemc.gov.au\)](#)

⁹ [Zero Sum - Citizens Advice](#)

energy supply as a given, through adopting this consumer-centred perspective, Citizens Advice identifies and develops very similar principles to the Australian approach:

- i. Clear and easy to access information about products, services and options.
- ii. User-friendly information about how data is used, stored, accessed and shared. Consumers must be able to control how often their data is shared, and who it's shared with.
- iii. Communications that are designed around consumer needs and preferences. In particular, improved communication with consumers in vulnerable circumstance, which acknowledge, and meet customer needs and preferences.
- iv. Access to independent advice, support and redress if things go wrong – including automated payments if a company doesn't deliver the guaranteed standards of service it is supposed to.

2.6 From an EU perspective, the Council for European Regulators (CEER) along with the European Consumer Organisation (BEUC) has also set out a vision for energy consumers named ASPIRE¹⁰, that focusses on:

- **Affordability:** This involves the principle of “energy efficiency first”, fair and equitable allocation of energy system costs that ensure value for money, and a “Distributional Impact Assessment” of planned policies on consumers by policy makers, so that unreasonable extra burden is not placed on certain, particularly vulnerable, consumer groups.
- **Simplicity** – This includes:
 - I. **Transparency:** Simple, readily accessible, comparable, information that makes it easy for consumers to make choices that are sustainable. This includes switching between suppliers, billing and dispute resolution.
 - II. **Clarity and Accuracy:** Up-to-date, correct, complete and comparable information is provided to consumers in an understandable manner, without overloading them, to facilitate understanding and allow consumers to easily assess independently their choices and the implications of their decisions.

¹⁰ [Let's ASPIRE \(ceer.eu\)](https://ceer.eu)

- III. **Advice:** Consumers receive reliable, clear advice on how to use energy sustainably to satisfy their needs, how to reduce their energy bills and which tariffs are most suitable for them (including dynamic pricing).
- **Protection:** This element is discussed further from paragraph 2.9.
 - **Inclusiveness:** Cross-sectoral dialogue with key stakeholder to discuss best policy solutions for vulnerable consumers, who should also receive increased protection. Consumers should be offered alternative tools to participate equally to support those in vulnerable situations or low digital literacy.
 - **Reliability:** Energy supply is an essential service. Consumers should have access to reliable and secure energy supply regarding both technical and commercial practices. This includes processes to resolve disputes fairly and quickly. For consumers to engage with, and benefit from the energy market, they need to be able to find and trust relevant information on everything to facilitate switching to environmental impact of energy consumption.
 - **Empowerment:** The same level of protection is granted and enjoyed by all energy consumers, regardless of their supply service. Consumers that contribute to grid stability through demand response and *prosumers* who feed their electricity are rewarded economically. To enable this, authorities need to facilitate well-functioning markets with efficient price signals, without unreasonable barriers or too high thresholds for entry into the market.
- 2.7 This document identifies that for the energy transition to be successful, consumers will need to be *“informed, supported and nudged throughout.”* All relevant stakeholders (*“governments, regulators, consumer protection and enforcement authorities, consumer organisations, as well as companies”*) must work closely for consumers to benefit from new developments. *“Strong cooperation between all these different actors can help address any potential unintended consequences of the energy transition.”*
- 2.8 It may ostensibly appear that greater cooperation between consumer protection organisations and energy suppliers is at odds with placing greater onus on suppliers to achieve positive outcomes for consumers based on their consideration of consumer needs. On the contrary, ASPIRE sets out a vision whereby policy makers and regulators will work with industry through putting *“in place innovation-orientated frameworks that enable new products, services and business models”*. *Industry’s role will be to operate within these frameworks to* develop and market new products that consumers want to use and from which they can easily benefit.”

2.9 ASPIRE's purpose is to set out the focus on key areas for all stakeholders when aiming for these goals; expanding further, both on what the Energy Strategy aims of enable and protect could involve, and what the Australian and Citizens Advice documents on consumer protections entail. These focus areas will be highlighted throughout this review. However, on reviewing *Protection*, there are 5 clear principles which underpin it:

- I. **Consumer Protection and Redress:** Consumer enjoy protections in consumer protection legislation (e.g. Unfair Trading Regulations¹¹) as well as energy sector specific rules. "The diverse needs of customers, particularly those of the most vulnerable in society are recognised and protected."
- II. **Data Protection:** Protection against unlawful or unfair treatment of consumer data e.g. in relation to price discrimination. Companies are clear about what data is collected, who has access to that data, for which purpose it is used, how the data is protected and how the consumers' right to access their data is protected.
- III. **Cybersecurity:** Companies developing and offering smart energy technologies and services ensure that consumer enjoy the highest level of protection from cybersecurity risks.
- IV. **Protection against price manipulation:** New forms of abuse of market power may arise through algorithmic manipulation of prices that may result from energy companies or new providers having access to detailed information on consumer's energy consumption and an increasing use of artificial intelligence.
- V. **Consumer crisis management:** Contingency plans to mitigate the impact of a crisis like COVID-19 on consumers and the energy system including communicating with energy consumers on measures applied. Sustainability goals should be safeguarded and optimised to support the recovery of consumers and society overall.

2.10 These Protection principles set out the basis of a framework which energy suppliers and regulators could adopt when aiming to address individual consumer needs, including those that are vulnerable. One key aspect identified is that for a truly inclusive transition, vulnerable consumers will need specific policy solutions.

2.11 In a separate paper¹² for BEIS in May 2018, Dr Christopher Decker set out

¹¹ [The Consumer Protection from Unfair Trading Regulations 2008 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2008/18/section/1)

¹² [Goals-based and rules-based approaches to regulation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/311111/Goals-based_and_rules-based_approaches_to_regulation.pdf)

what may be the advantages and disadvantages of both a “goals / objectives” based approach, and a “rules based” approach (summary table of which included in Appendix II of this report). One crucial conclusion drawn in his analysis is that while a rules based approach may be appropriate with homogenous groups, an outcomes (or goals) based approach is likely to be the more appropriate means in complex settings, to meet the array of needs of a diverse range of consumers who are participating in a wide variety of activities (Pg40).

- 2.12 However, it was also identified that although there are challenges in successfully capturing a wide range of “risky” behaviour and outcomes in a prescriptive approach, some degree of instruction may still remain the only option to avoid low-probability but high risk events, something reflected in the ASPIRE protection principle on consumer crisis management. This is where *pragmatism* as stated in the UR FWP may be required when attempting to adopt a principles based approach.
- 2.13 What Dr Decker proposes is a two-fold way for regulators to adapt:
- 1) Future framework could be based around a small number of baseline rights that apply to all consumers irrespective of how they source, manage or consume energy, and based around fundamental principles (e.g. the right to access energy).
 - 2) The framework could place greater reliance on co-regulation to develop, monitor and enforce a series of codes that apply to new products and services, avoiding the need to definitively pre-determine what risks will exist in advance. Such an approach does not prevent regulators developing an understanding of what types of risks may arise, so regulators can still steer activity towards what may appear are particularly high risk areas for consumers while the framework itself remains based on consumer outcomes.
- 2.14 Below is a case study of recent Ofgem protections introduced due to COVID-19¹³. This is an example of the type of action a regulator can take in response to a crisis. It is important to note these measures were introduced over 18 months into the COVID-19 pandemic, which highlights the criticality of having contingency plans already in place as identified as required in the fifth ASPIRE Protection principle of consumer crisis management.

¹³ [Ofgem strengthens protections for customers struggling with energy bills this winter | Ofgem](#)

As a response to Covid-19, Ofgem set out additional protections which came into effect in December 2020. Suppliers are now required to provide more support to customers struggling to pay their energy bills and provide extra help for prepayment customer. The following has now been included within supplier licences:

- 1. Offer emergency credit to customers struggling to top up their prepayment meter, many of whom are likely to be vulnerable.**
- 2. Offer extra prepayment credit for households in vulnerable circumstances to provide more time while working out alternative payment arrangements.**
- 3. Now a formal requirement for suppliers to have appropriate credit management policies, make proactive contact with customers, and set repayment rates based on ability to pay.**

Delivering Principles Based Regulation

- 2.15 The BEIS report by Dr Decker also highlights that any advantages of adopting an outcomes based approach to regulation is *“affected by the degree of trust between a regulator and the community it regulates.”* Similarly, in a discussion paper provided by SSE to Ofgem in 2016 on Principles Based Regulation (PBR)¹⁴, trust between regulator and regulated company based on effective communication was identified a key requirement. While the *“policy intent must be thoroughly understood by all to ensure the consumer outcomes are achieved... there should be no ambiguity over the consumer outcomes the principle is attempting to achieve.”*
- 2.16 A London School of Economics article by Julia Black¹⁵ on the role of PBR in the Financial Services Authority (FSA) identified that shared understanding between the regulator and regulated organisations as to the role and purpose of principles will partially require the development of further guidance. It is suggested that on-going dialogue between regulator and regulated organisations is required. Any gaps in respective mind-sets can lead to mistrust and uncertainty.
- 2.17 The FSA proposes “rules of engagement” whereby firms accept responsibility for thinking through the application of any principles, while the FSA supports firms in exercising their responsibility by providing

¹⁴ [Principles based regulation \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/principles-based-regulation)

¹⁵ [Making a success of Principles-based regulation \(lse.ac.uk\)](https://www.lse.ac.uk/Principles-based-regulation)

commitments to how acceptable or not interpretation of principles may be.

- 2.18 The Black paper highlights that enforcing a principles based approach to regulation may require a “due diligence” defence. These can create an incentive for managers to improve internal systems and controls as they will be given recognition in any enforcement action that may occur if they can demonstrate reasonable steps had been taken to interpret and apply the principles, while also incorporating available and relevant published guidance.
- 2.19 A National Audit Office (NAO) report into the *Principles of Effective Regulation*¹⁶ also highlights the importance of providing clear and accessible advice and guidance to help with compliance, which in turn can encourage a culture of openness and going beyond minimum service requirements. Through undertaking engagement with regulated entities, an understanding can be developed of how incentives operate with policy aims allowing for identification of any gaps or weaknesses that need addressed.
- 2.20 A challenge identified in applying an outcomes based approach lies in actually identifying, and then assessing, outcomes and performance standards. A principles based approach to regulation may be beneficial in that regulators are determining from the outset what objectives they wish to fulfil. However, there is a requirement to translate these objectives into more specific measurable outcomes.
- 2.21 A further question arises in terms of the difference in resource that large, well established energy suppliers can direct towards developing approaches to meeting outcomes in comparison to new entrants. There is potential for such a resource deficit acting as a barrier to smaller and new market entrants being able to provide competition.
- 2.22 There may also be a difficulty in finding a balance between allowing energy suppliers to determine their own approach in following principles, when future related frameworks in relation to areas such as data visibility may require mandated industry participation.
- 2.23 The Case Study below refers to the goals based approach to regulation that is adopted by the Health and Safety Executive (HSE) in GB. The GB HSE has been identified as undertaking such a hybrid goals and rules based approach for a significant length of time (beginning as far back as 1972) due to the nature of health and safety risks.

¹⁶ [Good practice guidance Principles of effective regulation \(nao.org.uk\)](http://nao.org.uk)

The Health and Safety Executive is identified in the BEIS report on Goals based and Rules based regulation as having one of the longest applications of a goals-based approach, with responsibility lying primarily with those who create risks and work with them.

Health and Safety regulations are directed towards ever changing situations where risk management is dependent on human behaviours and responses. There is acceptance that it is not possible to develop static rules to achieve beneficial consumer outcomes when these rules are applied to continuously changing scenarios.

To address this, HSE issues different guidance as to how goals should be interpreted, and what types of compliance actions would be considered, something that can assist smaller firms with less expertise to make assessments required to comply with obligations.

In specific, limited circumstances, HSE also issues special status guidance termed Approved Codes of Practice, which clarify particular aspects of general duties and spell out implications. This is designed to “prevent both over-response from industry and over-enthusiasm by enforcers.”

2.24 Figure 3 in the NAO report on *Performance Management by Regulators*¹⁷ sets out the characteristics of good performance measurement frameworks that it established in a previous report titled *Choosing the Right FABRIC*¹⁸:

- **F**ocused on regulator’s aims and objectives. Any performance measures used should clearly map onto objectives and priorities.
- **A**ppropriate to, and useful for, decision-makers within the organisation, and meeting the needs of external stakeholders.
- **B**alanced; giving a picture of what the organisation is doing, covering all significant areas of work.
- **R**obust; for example to withstand organisational or personnel changes.
- **I**ntegrated with the organisation’s business planning and management processes.
- **C**ost-effective; balancing the benefits of performance information against the costs.

2.25 The HSE is again identified by the NAO as an example of an organisation

¹⁷ [Performance-measurement-by-regulators.pdf \(nao.org.uk\)](https://nao.org.uk/publications/performance-measurement-by-regulators.pdf)

¹⁸ [Choosing the right FABRIC \(nao.org.uk\)](https://nao.org.uk/publications/choosing-the-right-fabric.pdf)

that successfully translates higher level objectives into operational objectives with milestones against which progress can be tracked. The 2020-21 HSE Annual report and Accounts¹⁹ sets out on a single page (p59) how the objectives feed into the overall mission statement of the organisation, with annual priorities set out to achieve those objectives. A number of milestones for the delivery of outputs are clearly set out under each of the objectives, with detail on whether or not they had been delivered (p20).

- 2.26 The development of a performance measurement framework that includes detail and measures on inputs, activities and outputs will enable a meaningful assessment of regulatory performance. For example, the use of pricing as a series of metrics could be used if they directly relate to the pursuit of a certain objective such as the APSIRE principle on Affordability. An example of how measures can be developed to support an objective is contained taken from the NAO report is contained in Appendix III. The NAO report also contains detail of characteristics of good performance measures and information, included in Appendix IV.
- 2.27 There may be a risk that adopting a hybrid approach, governed by principles along with specific “crisis” rules, may reduce the likelihood of reaping the full benefits that could be obtained by either approach on their own. The May 2018 BEIS report also identifies uncertainty as the primary cause for such a reduction in effectiveness. *“The question of the appropriate balance cannot be determined in the abstract but depends on a range of contextual factors... the direction of impact of some of these factors may only become evident over time, such that the balance may also need to be refined over time.”*
- 2.28 As stated in the outset of this section, consumer protection organisations will need to become more adaptive as this will impact the ability to respond to what may become an ever shifting and fluid range of consumer needs. However this can also perhaps lead to issues with regulatory creep, or blurring of the distinction between minimum standards and best practice²⁰.
- 2.29 In a paper to BEIS by Prof Christopher Hodges, it is stated that the design and operation of a regulatory system will be most effective where it adopts the following principles²¹:
- It supports ethical and fair behaviour – ethical behaviour itself as something that can be voluntary but is incentivised and recognised

¹⁹ [Health and Safety Executive annual report and accounts 2020 to 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/854422/Health_and_Safety_Executive_annual_report_and_accounts_2020_to_2021.pdf)

²⁰ [black5 \(lse.ac.uk\)](https://black5.lse.ac.uk/)

²¹ [Microsoft Word - 20160810 FINAL CH paper for publication.docx \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/854422/Microsoft_Word_-_20160810_FINAL_CH_paper_for_publication.docx.pdf)



- Regulators adopt unimpeachable, consistent and transparent practice
- Business is capable of demonstrating evidence of their commitment to fair and ethical behaviour that supports the trust of regulators and all other stakeholders
- An open culture where unintentional wrongdoing is used to learn rather than for blame
- A Collaborative culture to maximise performance, compliance and innovation
- A proportionate response to intentional rule breaking or unethical behaviour

2.30 The Case Study below is on the Ofcom Fairness for Customers Principles²². The commitments developed by Ofcom and signed up to by providers are an example of how a regulator can set out what it expects from providers, who are then able to establish their own way of achieving them.

²² [Britain's biggest broadband and phone firms to put fairness first - Ofcom](#)

In June 2019 Ofcom released commitments for UK providers to sign up to. These were designed to enable fair treatment of customers by the provider. Whether undertaking tasks such as signing up to a new deal or trying to resolve a problem or issue, providers now have responsibility to achieve outcomes for customers based on the framework set down in the commitments. As part of any assessment of fairness (or unfairness) Ofcom will consider how far providers are living up the following commitments in the round:

1. Customers get a fair deal, which is right for their needs.
2. Customers get the support they need when their circumstances make them vulnerable.
3. Customers are supported to make well-informed decisions with clear information about their options before, during, and at the end of their contract.
4. Customers' services work as promised, reliably over time. If things go wrong providers give a prompt response to fix problems and take appropriate action to help their customers, which may include providing compensation where relevant.
5. Customers can sign up to, change and leave their services quickly and smoothly.
6. Customers can be confident that fair treatment is a central part of their provider's culture.

Summary:

Delivering Consumer Protection Principles in a Future Energy World

The energy transition is not just a move to a net zero model, but also one to energy being delivered as a more digitalised and decentralised service. This entails a shift from the current linear model of selling energy by generator to supplier to end user, to an increased number of diverse interconnected range of stakeholders that can enable energy to be paid for more as a subscription service.

This change will be brought about via societal and technological changes that will introduce the capacity for delivering energy in way that addresses individual consumer needs.

Trust and collaboration will be one of the core foundational elements between consumer protection bodies and energy suppliers.

The underlying reason for an energy regulator will not change in facilitating the delivery of affordable, secure and sustainable energy.

Energy regulation will need to evolve and transition to an objectives based approach that is achieved through a focus on principles that reflect desired

outcomes for consumers.

Although suppliers will have responsibility for achieving positive and fair outcomes for consumers, regulators will still likely need to develop clear and accessible guidance on how to apply principles. This will help develop a culture of openness and learning to enable suppliers to develop approaches that maximise performance in achieving consumer outcomes that go beyond minimum service requirements.

It was also identified there may also be a requirement for maintaining a more prescriptive, rules based approach in some areas. Examples include:

- Vulnerable consumers
- Particular times of “crisis” e.g. COVID-19

The following are examples of the types of principles that could be adopted alongside greater guidance on application, and in a hybrid model with rules for specific areas:

The UN Guidelines for Consumer Protection areas of focus for good business practice:

- a) **Fair and equitable treatment** – Dealing honestly with consumer and avoiding practices of harm, particularly in relation to vulnerable and disadvantaged consumers.
- b) **Commercial behaviour** – Consumer protection is an objective. Businesses should avoid illegal, unethical, discriminatory or deceptive practice that may pose unnecessary risk or harm consumers.
- c) **Disclosure and transparency** – Businesses should provide easy to access, complete, accurate and non-misleading information regarding goods and services, terms, conditions, fees and costs so consumers can make informed decisions.
- d) **Education and awareness raising** – Business should develop programmes and mechanisms to assist consumers to develop knowledge and skills necessary to understand risks and access competent advice and assistance, preferably from an independent third party.
- e) **Protection of privacy** – Business should protect consumers’ privacy through a combination of appropriate control, security and transparency and consent mechanisms relating to the collection and use of their data.
- f) **Consumer complaints and disputes** – Businesses should make available complaints handling mechanisms that provide consumers with expeditious, fair, transparent, inexpensive, accessible, speedy and effective dispute resolution without unnecessary burden. This should include considering subscription to international standards pertaining to internal complaints handling, alternative dispute resolution services and

customer satisfaction codes.

Dr Christopher Decker, who has compiled reports on principles based approaches to regulation for both BEIS and Australian Energy market Commission, developed the following areas for focus:

- 1) Consumers should have access to at least one source of reliable energy supply;
- 2) Consumer should have choice, and ability to choose another supplier / source of energy and to switch supplier without undue impediments;
- 3) Consumer should have access to sufficient, accurate and timely information;
- 4) Vulnerable consumer circumstances (needs) should be adequately taken into account in supply arrangements; and
- 5) Consumers should have access to low cost and accessibly dispute resolution mechanisms (redress).

Citizens Advice in GB, through adopting a stated consumer centric perspective, have developed the following principles:

- 1) Clear and easy to access information about products, services and options.
- 2) User-friendly information about how data is used, stored, accessed and shared. Consumers must be able to control how often their data is shared, and who it's shared with.
- 3) Communications that are designed around consumer needs and preferences. In particular, improved communication with consumers in vulnerable circumstance, which acknowledge, and meet customer needs and preferences.
- 4) Access to independent advice, support and redress if things go wrong – including automated payments if a company doesn't deliver the guaranteed standards of service it is supposed to.

The Council for European Regulators (CEER) along with the European Consumer Organisation (BEUC) has also set out a vision for energy consumers named ASPIRE, that focusses on:

- **Affordability:** This involves the principle of “energy efficiency first”, fair and equitable allocation of energy system costs that ensure value for money, and a “Distributional Impact Assessment” of planned policies on consumers by policy makers so unreasonable extra burden is not placed

on certain, particularly vulnerable, consumer groups.

- **Simplicity** – This includes:
 - **Transparency:** Simple, readily accessible, comparable, information that makes it easy for consumers to make choices that are sustainable. This includes switching between suppliers, billing and dispute resolution.
 - **Clarity and Accuracy:** Up-to-date, correct, complete and comparable information is provided to consumers in an understandable manner, without overloading them, to facilitate understanding and allow consumers to easily assess independently their choices and the implications of their decisions.
 - **Advice:** Consumers receive reliable, clear advice on how to use energy sustainably to satisfy their needs, how to reduce their energy bills and which tariffs are most suitable for them (including dynamic pricing).
- **Protection** – This includes:
 - **Consumer Protection and Redress:** Consumer enjoy protections in consumer protection legislation (e.g. Unfair Trading Regulations) as well as energy sector specific rules. “The diverse needs of customers, particularly those of the most vulnerable in society are recognised and protected.”
 - **Data Protection:** Protection against unlawful or unfair treatment of consumer data e.g. in relation to price discrimination. Companies are clear about what data is collected, who has access to that data, for which purpose it is used, how the data is protected and how the consumers’ right to access their data is protected.
 - **Cybersecurity:** Companies developing and offering smart energy technologies and services ensure that consumer enjoy the highest level of protection from cybersecurity risks.
 - **Protection against price manipulation:** New forms of abuse of market power may arise through algorithmic manipulation of prices that may result from energy companies or new providers having access to detailed information on consumer’s energy consumption and an increasing use of artificial intelligence.
 - **Consumer crisis management:** Contingency plans to mitigate the impact of a crisis like COVID-19 on consumers and the

energy system including communicating with energy consumers on measures applied. Sustainability goals should be safeguarded and optimised to support the recovery of consumers and society overall.

- **I**nclusiveness: Cross-sectoral dialogue with key stakeholder to discuss best policy solutions for vulnerable consumers, who should also receive increased protection. Consumers should be offered alternative tools to participate to support those in vulnerable situations or low digital literacy.
- **R**eliability: Energy supply is an essential service. Consumers should have access to reliable and secure energy supply regarding both technical and commercial practices. This includes processes to resolve disputes fairly and quickly. For consumers to engage with, and benefit from the energy market, they need to be able to find and trust relevant information on everything to facilitate switching to environmental impact of energy consumption.
- **E**mpowerment: The same level of protection is granted and enjoyed by all energy consumers, regardless of their supply service. Consumers that contribute to grid stability through demand response and *prosumers* who feed their electricity are rewarded economically. To enable this, authorities need to facilitate well-functioning markets with efficient price signals, without unreasonable barriers or too high thresholds for entry into the market.

A useful tool for a regulator in evaluating supplier performance in achieving overarching goals or principles may be the NAO's FABRIC approach, which includes the development of measures that suppliers should be able to demonstrate performance against that map onto objectives and priorities:

- **F**ocused on regulator's aims and objectives. Any performance measures used should clearly map onto objectives and priorities.
- **A**ppropriate to, and useful for, decision-makers within the organisation, and meeting the needs of external stakeholders.
- **B**alanced; giving a picture of what the organisation is doing, covering all significant areas of work.
- **R**obust; for example to withstand organisational or personnel changes.
- **I**ntegrated with the organisation's business planning and management processes.
- **C**ost-effective; balancing the benefits of performance information against the costs.

3. Coverage of Future Consumer Protection Requirements

Technology

- 3.1 A key policy within the DFE Energy Strategy is the introduction of an information and awareness campaign of energy decarbonisation for homes, businesses and communities. This campaign will be focussed not just on standards and behaviours but also the technologies that consumers will need to adopt to enable them to transition away from carbon to cleaner energy usage.
- 3.2 The December 2020 UK Government Energy White Paper²³ also highlights the focus that will be placed on clean energy technologies in facilitating the consumer transition, identifying there will be no single technology alternative to fossil fuels. Electric heat pumps, hydrogen, green gas and heat networks have all been recognised as having a role to play in enabling consumer decarbonisation. Each were identified as needing consideration as part of any future consumer protection (CP) arrangements. Some may have CP aspects already embedded in existing CP frameworks while others may require new and additional CP frameworks to be implemented.
- 3.3 These technologies are identified across a number of UK Governmental advisory papers including by the CCC²⁴ and House of BEIS Select Committee into Decarbonising Heat in Homes²⁵. What is also recognised alongside these technologies is the importance the role retrofitting homes to increase energy efficiency will have from the outset, and is also a key area for consumer protections.
- 3.4 As identified by Citizens Advice in *The Net Zero Protections Puzzle*²⁶, energy efficiency measures such as insulation, low carbon heat source installations including heat pumps, and even micro-generation such as solar panels are all areas where consumers have insufficient protection. This is in comparison with other sectors where protections are standard such as when purchasing a mobile phone contract, credit products or car insurance.
- 3.5 In May 2022, in response to the report into Decarbonising Heat in Homes by

²³ [Energy white paper: Powering our net zero future - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/white-papers/energy-white-paper)

²⁴ [Heat and energy efficiency in buildings - Climate Change Committee \(theccc.org.uk\)](https://theccc.org.uk/heat-and-energy-efficiency-in-buildings/)

²⁵ [Decarbonising heat in homes \(parliament.uk\)](https://parliament.uk/decarbonising-heat-in-homes/)

²⁶ [OctFINAL The net zero protections puzzle: Helping people piece together home energy improvements \(citizensadvice.org.uk\)](https://citizensadvice.org.uk/octfinal-the-net-zero-protections-puzzle-helping-people-piece-together-home-energy-improvements/)

the BEIS Select Committee²⁷, it was recognised that to “decarbonise domestic heating in time to deliver net zero by 2050, the Government must provide clear, strategic direction and guidance.” This includes production of a heat technology road map to set out the milestones for rolling out different low carbon technologies and energy efficiency upgrades.

- 3.6 A scheme which has just launched in England and Wales in Spring 2022 and is open to domestic (and small non-domestic) properties is the “Boiler Upgrade Scheme”. It is designed to provide grants to encourage and help overcome the upfront costs of property owners installing low carbon heating systems including air source heat pumps, ground source heat pumps or a biomass boiler²⁸. The scheme is administered by Ofgem.
- 3.7 The Boiler Upgrade Scheme (England and Wales) Regulations 2022 set out the rules under which the scheme is to operate^{29 30}.
- 3.8 The Regulations set out requirements for installed equipment to qualify as either an air source heat pump, a ground source heat pump, or a biomass boiler. The new heating system must:
- Have been commissioned (that is, installed and fully checked by installer) on or after 1 April 2022;
 - Be capable of meeting the full space heating and hot water requirements of a property;
 - Replace an existing fossil fuel heating system (such as oil, gas or electric);
 - Meet certain technical standards, such as minimum energy efficiency requirements.
- 3.9 They also set out the obligations placed upon installers including requirement for retaining copies of any information relied on when making a grant application, providing this to the Gas and Electricity Markets Authority (GEMA) when requested, and alerting GEMA to any information that has been discovered as incorrect or subsequently has changed materially.
- 3.10 To adhere to the TrustMark scheme when installing energy efficiency measures under any government supported initiative, a business or

²⁷ [Decarbonising heat in homes: Government Response to the Committee's Seventh Report of 2021-22 \(parliament.uk\)](#)

²⁸ [Check if you may be eligible for the Boiler Upgrade Scheme - GOV.UK \(www.gov.uk\)](#)

²⁹ [The Boiler Upgrade Scheme \(England and Wales\) Regulations 2022 \(legislation.gov.uk\)](#)

³⁰ N.B. As of May 2022 this is still appearing as a draft item of legislation and not yet a Statutory Instrument.

tradesperson must be certified against Publically Available Specification (PAS) standards 2030 by a certification body that has been accredited by UK Accreditation Service. PAS 2030 set out the requirement for competence, technical ability, and overall requirements for quality that installers follow.

- 3.11 This approach is being adopted alongside the PAS 2035 standard on retrofitting dwellings for improved energy efficiency. Entailed within this standard is detail on the different qualifications required for completion to register as a retrofit advisor, assessor, coordinator, designer or evaluator.
- 3.12 Different to the PAS 2030³¹ certification requirement for installing energy efficiency measures installers of low carbon heat measures under government initiatives must be certified with the Microgeneration Certification Scheme ³² (MCS) (or an equivalent).
- 3.13 The purpose of the MCS is to certify, quality assure and provide customer protection for microgeneration installations and installers. These include heat pumps, heat products, biomass, as well as products relating to solar PV and wind.
- 3.14 Home energy-saving improvements must be completed by a Trustmark Registered Business. Sponsored by BEIS, TrustMark is the Government endorsed quality scheme that sets out the requirements to be fulfilled when registering as an advisor, assessor, coordinator, designer and evaluator. The purpose is to provide confidence to consumers that the work is delivered to recognised specifications and underpinned by a compliance regime.
- 3.15 In line with a recommendation from a previous review provided to the UK Government in 2017, MCS and Trustmark³³ work together to deliver the quality mark on retrofit and energy efficiency work in homes in GB³⁴.
- 3.16 Installers must also be registered with a certification body that checks they are meeting the standards as set out by MCS. A range of different certification bodies conduct practical checks in the field to check the technical competency of what has been installed as per the standards set out by MCS. Another crucial aspect of the MCS scheme as identified by the Chief Executive Ian Rippin, is the “safety nets” in place if there are issues with an installation put into a premises by a trader that has now ceased to

³¹ [Become PAS / MCS Certified - With TrustMark](#)

³² [Microgeneration Certification Scheme \(MCS\) transfer to MCS Service Company - GOV.UK \(www.gov.uk\)](#)

³³ [TrustMark - The Government Endorsed Scheme For Work Around The Home](#)

³⁴ [Government names Trustmark as the new all-encompassing mark of quality for consumers in and around the home](#)

operate through insurance backed guarantees³⁵.

- 3.17 For the businesses that sell (or lease) renewable energy generation systems they have standards set out by the Renewable Energy Consumer Code (RECC)³⁶. The code is designed to dovetail with the MCS standards.
- 3.18 The RECC sets out all factors that contribute to overall consumer service, including:
- Pre-sales activities, advertising, websites and sales visits;
 - Details of what the Code provides;
 - Clear information on the systems and their performance;
 - Any arrangements for installing and connecting the system;
 - The selection and quality of Goods to be supplied;
 - Details of the conditions of business that apply;
 - The standard of any installation and other on-site work;
 - Guarantees, and any maintenance and after-sales services needed;
 - The action that will be taken to deal with any problems; and
 - Monitoring and continuously improving procedures.
- 3.19 Another feature of the code is the requirement to put in place a process and training for their employees, including those working on their behalf, on safeguarding consumers in vulnerable circumstances, something that code members need to be able to demonstrate. There is an expectation that members should be able to recognise individual characteristics or circumstances can change over the different stages of a contract.
- 3.20 Moreover, code members must pro-actively suggest measures that will help a consumer that has been potentially identified as vulnerable. Visits to homes may have to be conducted at a time when a vulnerable consumer's friend or family member is present if they so wish.
- 3.21 As an alternative to registering with RECC, business carrying out MCS installations could alternatively register to demonstrate compliance with the Home Insulation and Energy System contractor's scheme (HIES) and Code

³⁵ [Part 2: How to become a certified installer | Business Companion](#)

³⁶ [Renewable Energy Consumer Code \(recc.org.uk\)](http://recc.org.uk)

or Practice³⁷, the principles of which scheme member must:

- Act with professional integrity at all times;
- Treat consumer fairly and with respect;
- Be honest and truthful about the products and services they supply;
- Respect each consumer's home;
- Provide clear and accessible information at all stages of work;
- Offer clear rights for consumers to change their mind;
- Professionally and competently deliver and install products;
- Protect consumers' deposits and guarantees;
- Identify consumer with additional needs and provide appropriate support;
- Recognise the value of effective complaint handling systems;
- Also included is further detail on misleading claims or information.

3.22 Essentially there are two different organisations both of which set out a code that installers should adhere to for the benefit of consumers which could create competing/conflicting priorities. Moreover, when MCS took a decision to mandate all installers to register with the RECC, this resulted in HIES announcing legal proceedings against what was seen as anti-competitive move by the MCS³⁸.

3.23 One of the key findings identified in a Changeworks report on Consumer Protection Requirements in the Domestic Energy Efficiency and Renewable Retrofit Market³⁹ was the array of good practice put in place by consumer code and guarantee organisations. This included such things as taking photos pre-install / during install, independent inspections of work, frequent updating of accreditation lists and paying upfront for remedial work. However, there is a lack of consistency in how good practices are implemented across the different codes and guarantee organisations, with limited auditing to check installers are adhering to them.

³⁷ [HIES Code of Practice \(hiesscheme.org.uk\)](https://hiesscheme.org.uk)

³⁸ [HIES launches legal action against 'anti-competitive' MCS change | Solar Power Portal](#)

³⁹ [Changeworks: Consumer Protection in the Domestic Energy Efficiency and Renewable Retrofit Market](#)

- 3.24 Awareness of these consumer codes, guarantee organisations and certification schemes was low among consumers. The large number of organisations involved makes checks of installer accreditations and navigation of redress very challenging. There is little customer journey information to help consumers understand what to consider at each stage of the installation process to avoid common pitfalls, or path of redress when issues arise. Vulnerable consumers targeted through cold-calling and door-stepping are at greatest risk.
- 3.25 These organisations also do not exist in isolation from one another but have little integration or cohesive working between them. The Changeworks report identified this adds to confusion and challenges when it comes to seeking redress. A lack of referral mechanism to enable communications between organisations leaves signposted consumers having to repeat their distressing experiences. Some attempts had been made to reduce the number of layers needed by combining code and guarantee structures. Examples identified include collaboration between MCS and the three Chartered Trading Standards Institute (CTSI) approved consumer codes and organisations such as MCS and RECC auditing one another's practices. However this is the precise type of behaviour that was challenged as anti-competitive by HIES.
- 3.26 It was also the view of stakeholders interviewed in the research conducted as part of the Changeworks report that a single, well-publicised Quality Mark would help reduce consumer confusion and provide confidence they are getting a quality service. It needed to be well-publicised partly so to avoid confusion with the GB TrustMark, with a risk also identified about how it would interact with the TrustMark.
- 3.27 The Each Home Counts⁴⁰ report by BEIS on consumer advice, protection, standards and enforcement for Energy Efficiency supported this. It stated that this convoluted framework has created a core problem in relation to consumer trust and called for one quality mark that required adherence to three elements from those who wished to use:
1. A Consumer Charter that ensures all consumers receive excellent levels of customer service, a clear redress process and guarantee protection;
 2. A Code of Conduct which set out how companies behave, operate and report, the requirements of which must be met or exceeded for

⁴⁰ [Each Home Counts: Review of Consumer Advice, Protection, Standards and Enforcement for Energy Efficiency and Renewable Energy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614441/Each_Home_Counts_Review_of_Consumer_Advice_Protection_Standards_and_Enforcement_for_Energy_Efficiency_and_Renewable_Energy.pdf)

the company to operate; and

3. Codes of Practice which are relevant to the installation of each measure under consideration so that the risk of poor quality installation is minimised.

3.28 Those working within the framework would need to display the requisite skills, requirements, behaviours and competencies, including:

- Technical competence required to protect life, health and safety, underpinned by regulatory powers to discipline those that fail to meet;
- Quality performance to ensure measures are installed in a way that meets requirements for performance; and
- Customer interfacing skills so that those operating within people's home do so in a way that is respectful and in line with good customer service that should be expected from them.

3.29 Another recommendation in this report was for the creation of an "Information Hub" to provide information to consumers undertaking energy efficiency improvements. This was perceived as a good idea by some stakeholders as it was viewed that a single place of trusted advice for both the consumer and installer was required. It was deemed to be a better alternative to the BEIS funded "Simple Energy Advice"⁴¹ online tool which was deemed too high level for all users.

3.30 Businesses carrying out installation work are required to record information about the work into TrustMark's Data Warehouse, which serves as a store of information about the work undertaken and associated financial protection measures. It was noted there was confusion amongst stakeholders between this information hub and the separate "data warehouse", which is used to hold documentation relating to completed work by installers. Any advice service provided as part of the Energy Strategy service would therefore need to be clearly distinguishable from any data repository on work undertaken on properties.

3.31 The UK Government followed up on initiatives with the Local Green Homes Grant Voucher with the Green Deal⁴² which enables households to avail of government loans to install energy efficiency measures. One of the key features of this scheme, is that organisations installing energy efficiency measures must be authorised to be able to provide a Green Deal Approved

⁴¹ [Simple Energy Advice](#)

⁴² [Green Deal: energy saving for your home: Overview - GOV.UK \(www.gov.uk\)](#)

Quality mark. This measure was introduced to rationalise the requirements placed on installers into one easy to recognise and understand quality mark for consumers to identify. The webpage sets out clear information on what consumers can avail from, what to expect from home assessments, and information on how the service can be combined with other government funding. Some installers are also able to offer a “Green Deal package” which includes assessment, finance and installation. A separate Green Deal Ombudsman has also been established to deal with complaints that have not been resolved with an installer within 8 weeks.

Solar and Battery Storage

- 3.32 In 2017, battery energy storage systems (BESS), as a technology that is also frequently sold along with solar panels, was also added to the (previously mentioned) RECC⁴³. There is a detailed list of safety requirements that BESS need to comply with in relation to electrical installation requirements, grid connectivity requirements, product safety regulation requirements and dangerous good regulations. Further information on these requirements can be found in the BEIS review of safety risks of Domestic Battery Energy Storage Systems⁴⁴ (pg32).
- 3.33 The aim of including BESS within the RECC is so consumers can obtain reassurance when purchasing battery storage technology. RECC identified that it had been receiving, on average, one complaint a week in relation mis-selling. This included false claims around the systems, such as stating they are certified to the MCS which does not cover battery storage. In addition there were instances of firms falsely identifying themselves as both MCS and RECC registered installers, and even entering homes on false pretences⁴⁵.
- 3.34 The Chief Executive at Renewable Energy Assurance (REAL) which facilitates RECC view was that anyone can install battery storage as there is no regulatory network and no requirement to be a member of an approved code or to be MCS qualified. This was also echoed in the Net Zero Protections Puzzle Citizens Advice report⁴⁶.
- 3.35 In California, concerns have arisen over false and misleading claims in the marketing of new energy products. This is in the context of an increasing number of consumers moving away from traditional energy sources and

⁴³ [Recc Now Extended To Include For Battery Storage Systems And Other Related Products - News - Renewable Energy Consumer Code \(RECC\)](#)

⁴⁴ [Study on domestic battery energy storage \(publishing.service.gov.uk\)](#)

⁴⁵ [Battery storage draws one complaint a week says consumer protection scheme | Solar Power Portal](#)

⁴⁶ [OctFINAL The net zero protections puzzle: Helping people piece together home energy improvements \(citizensadvice.org.uk\)](#)

beginning to obtain energy from solar power as well as battery storage. The Public Utilities Commission in California has stated that consumer protections will “grow weaker” the more that new technologies emerge along with their corresponding business models⁴⁷.

- 3.36 To address these issues, some states have introduced mandatory rooftop and community disclosure rules which require installers to provide certain details about the PV systems and purchase⁴⁸, while other states now also require consumers to be provided with a protection guide for solar which need to be signed prior to purchase.

Heat Pumps

- 3.37 The BEUC identified in a comparative study of green heating options for consumers in Czech Republic, Spain, Italy and Poland, that electric heat pumps will be the most affordable option for consumers to decarbonise their heating, but consumer rights must be improved to match those in electricity.⁴⁹
- 3.38 In a separate comparative review of European heat pump field trials it was revealed that heat pump performance is highly variable for similar products, due to variations in standards of design, installation and operation⁵⁰.
- 3.39 The establishment of minimum standards on electric heat systems to drive heat pump uptake has also been identified by the CCC.⁵¹ The CCC have identified a range of non-financial barriers restricting the uptake of heat pumps in relation to both technical performance and the availability of information and advice that consumers can trust.
- 3.40 Action 13 within the Energy Strategy Path to Net Zero Energy⁵² is for a review primarily to address the permitted development of heat pumps to align with modern standards and requirements, informed by other jurisdictions.
- 3.41 Heat pumps require a specialist survey to be undertaken to assess the insulation of the property and its existing radiators. Without adequate insulation, the heat pump will be less efficient than a fossil fuel powered system, with smaller and older radiators likely incompatible with the heat

⁴⁷ [Full article: Protecting consumers in digitized and multi-source energy systems \(tandfonline.com\)](#)

⁴⁸ [Solar Consumer Protection | State, Local, and Tribal Governments | NREL](#)

⁴⁹ [beuc-x-2021-112 goodbye gas why your next boiler should be a heat pump.pdf](#)

⁵⁰ [Meta-analysis of European heat pump field trial efficiencies - ScienceDirect](#)

⁵¹ [Next steps for UK heat policy - Committee on Climate Change - October 2016 \(theccc.org.uk\)](#)

⁵² [The Path to Net Zero Energy. Safe. Affordable. Clean. \(economy-ni.gov.uk\)](#)

pump system. The insulation of the heat pump itself is also complex.

- 3.42 Sweden, which is identified one of the primary markets for heat pumps^{53 54}, is highlighted by the CCC for its heat pump test centres. This raised technical standards and provided a quality assurance mechanism for award of government subsidy. Combined with quality labels introduced in 2005, these policies helped raise the previous insufficient installation and product standards for heat pumps. A similar process was also identified as having been successfully undertaken in Switzerland.
- 3.43 Another mechanism, in place in Sweden since 1989, and identified by CCC⁵⁵, is the independent complaints board or “Heat Pumps Court” that address litigation relating to false claims by installers on heat pump performance. It is run by the Swedish Heat Pump Association and enables customers to bring a claim directly against installation companies, with customers winning over half of cases.
- 3.44 The CCC Next Steps for Heat Policy paper⁵⁶ highlighted the ‘principal-agent’ issue in the private rented sector, with evidence suggesting that although regulations were introduced to protect tenant’s rights, many landlords are still refusing requests for energy efficiency improvement to be made to premises.
- 3.45 In the BEIS *Heat Pump Manufacturing Supply Chain Research Project*⁵⁷ it was also identified that there are lessons to be learned from the switch the sector has already undertaken to condensing boilers. In GB manufacturers were given two years notice before non-condensing boilers could no longer be installed.
- 3.46 Boiler manufacturers were found to be already targeting a transition to hydrogen boilers and in some case hybrid heat pumps. From a policy development perspective, the BEIS report highlighted the importance of the technological pathway the government wishes to pursue for heating, including how many and what types of heat pumps will comprise part of the transition. It was stated this needs to be clearly set out by Government, with advance notice. Adequate time is needed between the announcement of a policy change and the actual delivery of large technological shifts. Moreover, disruption in the sector can be minimised through clear and consistent policy direction delivered with notice in advance of two to three years. This also allows for consideration of potential gaps in protection and timeliness of

⁵³ [Heat Pumps – Analysis - IEA](#)

⁵⁴ [43 European Heat Pump Statistics \(UPDATED 2022\)](#)

⁵⁵ [UKERC-for-the-CCC-Best-practice-in-heat-decarbonisation-policy.pdf \(theccc.org.uk\)](#)

⁵⁶ [Next Steps for UK Heat Policy - Climate Change Committee \(theccc.org.uk\)](#)

⁵⁷ [Heat pump manufacturing supply chain research project report \(publishing.service.gov.uk\)](#)

getting them in place.

- 3.47 The BEIS report identified through interviews with manufacturers the need for a long term Government vision (e.g. a 30-year timescale) and clear commitment to heat pumps through government policy including targets, legislation as well as financial support and raising awareness for consumers. Again, clear policy direction will allow for clearer understanding of potential protections which are needed.
- 3.48 A British standard for heat pumps was identified as potentially supportive for British manufacturers. However, it was highlighted that attempts to protect indigenous industry in this way may result in increased difficulty in a consumer obtaining the optimal technological solution through reduced choice, lower quality and increased price. Any standards to support local manufacturing need to be carefully considered in terms of outcomes for consumers and the potential for unintended consequences.

Energy Efficiency

- 3.49 The Scottish Government's Route Map for an Energy Efficient Scotland⁵⁸ states (Pg10) that consumer protection and quality assurance must underpin the **20 year** programme of work in making buildings near zero carbon where feasible by 2050 in a way that is socially and economically sustainable.
- 3.50 Upon stakeholder engagement, a quality assurance framework for delivery was developed. These principles include robust consumer protection and enforcement that focuses on high standards of quality, customer care, competence, skills, training and health and safety. These must be enforced robustly as trust is crucial to the overall programme's success. One way of building that trust is through publically available vetting information and verification guidelines to demonstrate that contractors are appropriately qualified.
- 3.51 It also included (as identified in the principles identified in section 2 of this report) a simple and effective method for redress that must be included for when things go wrong for consumers. This is a clear, simple and well-defined complaints process, with support to navigate for consumers if needed.
- 3.52 The report sets out quality assurance criteria which details mandatory requirements including:
- Skills/competencies broken down by measure and building type: "It is crucial for installers to have an understanding of the suitable products

⁵⁸ <https://www.gov.scot/publications/energy-efficient-scotland-route-map/>

based on the property's characteristics." It was identified that there should be specific training relating to Built Environment; specialised training to ensure specific aspects can be completed to a high standard; and how energy efficiency measures might interact with one another for a "whole house" solution. It was recommended this will require a skills and qualifications matrix.

- Quality management – Including a Quality Mark for which there should be robust vetting and verification processes to achieve; definition of what success looks like in terms of quality; and verification processes.
- Customer care.
- Fair work practices.
- Workmanship guarantees and warranties.
- Contractual arrangements with customers.
- Competent and appropriately trained workforce that adhere to the Programme Code of Conduct. Individuals who fail to adhere will be removed from the scheme. It was identified that certain energy efficiency measures such as external wall insulation, at the time, were not supported by recognised qualifications, training or apprenticeships. This has resulted in training being geared towards manufacturers' systems and not necessarily on building type which risked installation of inappropriate materials.
- Simple and effective complaints process.
- Sufficient supply chain capacity.
- Programme finance.
- Build on existing standards and represent good value for money.

3.53 A key risk in the programme that was recognised is the difficulty in understanding what protection are needed for products that are not yet technically feasible. Quality standards are therefore something that will require periodic review, with a stated purpose as to why the review is being conducted.

3.54 In March 2020, Changeworks were commissioned on behalf of the Scottish Government to identify gaps to the existing consumer protection provisions in the domestic energy efficiency and renewable retrofit market and outline

recommendations for a robust consumer protection framework⁵⁹. A number of gaps were identified as “considerable” across the customer journey when retrofitting was undertaken, including:

- Pre-contractual: Mis-selling either through sale of inappropriate technologies or exaggerated savings and a lack of pre-installation surveys impacting on warranty claims.
- Contractual: Lack of independent checks and auditing throughout the installation process.
- Post-contractual: Difficulties in finding out who installed and insured measures. Warranties being invalidated due to a lack of consumer knowledge of maintenance requirements. Telephone numbers to lodge complaints are not always freephone.
- Funded schemes: Those accessing measures through funded schemes typically have greater protection due to higher levels of scrutiny of installers. This effectively creates a two-tier system of protection dependant on the measure or funding. However, these schemes often have limited funding per measure or property which can result in cutting of corners to turn a profit. This can be exacerbated when coupled with the use of sub-contractors without adequate oversight.
- Monitoring: There are no means to monitor the number and nature of complaints received, identify trends and take action to address emerging issues across the retrofit industry.

3.55 The impact of these gaps in protections are wide ranging for consumers, including debt or financial loss, inability to sell or insure homes, issues caused by poor installation such as damp, mould and electrical hazards, unusable or ineffective heating systems and loss of deposit due to rogue installers or companies going bust.

3.56 The Key points raised in the report include:

- Consumer knowledge, and the provision of information to consumers, needs significant improvement before stakeholders can become responsible for meeting Minimum Energy Efficiency Standards;
- Installers not adequately explaining how consumers house use the technology (or knowing what technology had even been installed) or

⁵⁹ [Consumer protection in the domestic energy efficiency and renewable retrofit market | Changeworks](#)

amend their behaviour / poor quality and mis-leading information;

- Vulnerability to cold-calling or door-stepping installers; creating a market for rogue installers; and
- Awareness campaigns not reaching the very consumers that are most vulnerable.

3.57 Through developing this insight, Changeworks developed a proposed framework that identifies the provisions and role different organisations might need to play in protecting consumers in a way that is robust and comprehensive. This can be found in Appendix VI. A key finding identified is the support an advice body or organisation may have to provide to consumers throughout the pre-contractual, contractual, and post-contractual phases of retrofitting. Consumers will most likely require complete end to end, or *wraparound*, support throughout their retrofitting journey. The other crucial function that requires an external organisation is for escalating issues and dealing with complaints and redress.

3.58 One of the recommendations within the BEIS Each Home Counts⁶⁰, and the other reports mentioned in this section, is for a consistent minimum standard for redress. This means not just an alternative dispute resolution process, but a ‘Single Promise Guarantee’ to cover product, design and installation, providing a single point for consumers to access and redeem appropriate financial protections such as warranties or insurance backed guarantees. This would cover the range of losses a consumer may suffer and protection for the long-term including when an installer or manufacturer is no longer trading.

Hydrogen

3.59 According to the CCC, hydrogen will likely in the future be able to provide value in heating through providing dispatchable fuel during times of peak demand as well as in particular parts of the UK where low-carbon hydrogen can be sourced at lower costs due to access to carbon capture and storage or “stranded” renewable electricity⁶¹.

3.60 The Hy4Heat programme in GB was established to evaluate the technical feasibility of replacing natural gas with hydrogen in residential buildings before proceeding with a trial Hydrogen Home with hydrogen powered

⁶⁰ [Each Home Counts: Review of Consumer Advice, Protection, Standards and Enforcement for Energy Efficiency and Renewable Energy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/Each_Home_Counts_Review_of_Consumer_Advice_Protection_Standards_and_Enforcement_for_Energy_Efficiency_and_Renewable_Energy_-_GOV.UK.pdf)

⁶¹ [Hydrogen-in-a-low-carbon-economy-CCC-2018.pdf \(theccc.org.uk\)](https://www.thccc.org.uk/wp-content/uploads/2018/05/Hydrogen-in-a-low-carbon-economy-CCC-2018.pdf)

heating and cooking appliances⁶².

- 3.61 As part of the investigation and scoping into hydrogen, BEIS has also consulted on the types of protections that should be considered for hydrogen consumers, including amendments to existing regulatory framework or possible new legislation that may be required⁶³.
- 3.62 The protections being considered under this new framework (which can be found in Appendix VII) cover the more general principles all heat consumers may require while remaining specific to aspects of undergoing a conversion as well as trial e.g. having access to suitable redress if unhappy with aspects of conversion or trial but linking this to existing alternative dispute resolution. In the responses to the consultation, a specific hydrogen ombudsman was suggested as a way of implementing this.
- 3.63 Other aspects are more focussed on the implications of using hydrogen only e.g. participants should not be financially disadvantaged as a result of a grid conversion and should not be expected to pay more to use hydrogen than they would for natural gas. Clarity on the future billing methodology was stated as needing to be made clear in customer information packs.
- 3.64 In the responses to this consultation, technical aspects on the use of hydrogen were identified by respondents including the need of greater understanding of the characteristics of hydrogen as a gas; compatibility with the existing infrastructure; how to ensure accurate metering of gas use; and the occurrence and impact of combustion by-products.
- 3.65 Moreover, the need for additional and specific provisions for vulnerable consumers and those experiencing fuel poverty was also identified as a common theme within responses to the consultation e.g. taking steps to ensure they have been sufficiently engaged with through use of a consumer champion. Clear and consistent messaging / communication, that is tailored to the needs of consumers and provided at key delivery points throughout the switchover process and trial duration was also identified.
- 3.66 Research conducted by Catapult into safeguarding consumers switching to hydrogen⁶⁴ identified similar findings that support those stated in the consultation responses including the risk of generalised advice rather than specific to the needs of consumer switching to hydrogen as well as the potential costs and impacts caused by disruption. This research recommended baseline support as well as additional assistance for

⁶² [Hy4Heat](#)

⁶³ [Hydrogen for heat: Facilitating a 'grid conversion' hydrogen heating trial - government response \(publishing.service.gov.uk\)](#)

⁶⁴ [Inclusive Innovation: Safeguarding the Switch to Domestic Hydrogen - Energy Systems Catapult](#)

vulnerable consumers during the different key consumer touchpoints in their journey including:

- When an engineer must be able to gain access to the property;
- An appliance is discovered to be unsafe and disconnected during a property survey;
- A gas appliance cannot be adapted to work with hydrogen and must be replaced;
- Requirement for asking questions to understand the personal circumstances of the resident, so appropriate support can be offered;
- The household being unable to cook, utilise central heating, or access hot water (for period of up to 5 days);
- Pipework requiring upgrading before hydrogen can be safely connected.

Potential coverage for home heating oil, LPG and solid fuels

- 3.67 At present, the Utility Regulator does not have a legislative remit for regulating home heating oil or LPG (Liquefied Petroleum Gas). Domestic premises that are not connected to the gas grid (known as off-grid) are therefore not in receipt of the same protections that piped gas customers are able to avail from. The same situation exists in GB where Ofgem have no basis for regulating oil or LPG.
- 3.68 Oil and LPG customers therefore rely solely on the baseline protections provided through Consumer Protection Law in Trading Standards and the Competition and Markets Authority. Other legislation including the Weight and Measures Act, and Measuring Instruments Regulations also apply in relation to oil.
- 3.69 Oil suppliers are responsible for setting prices and are open to negotiation with individual consumers. Following reports of potential profiteering by oil and LPG suppliers during the cold winter of 2010/11, the CMA (as previous Office Fair Trading) published a market study of off grid energy. This found that regulation, as a solution for natural monopolies such as gas and electricity that have transmissions and distribution costs, may not be effective for oil as the price is determined as a commodity in the market⁶⁵.

⁶⁵ [Heating oil \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/economic-affairs-committee/publications-and-reports/heating-oil/)

- 3.70 It has been highlighted by Citizens Advice⁶⁶ that households in GB that utilise oil and LPG miss out on various consumer protections in GB, including guaranteed supply for elderly and vulnerable customers. There is also an absence of protection for being in debt to a supplier, no requirement for a supplier to provide energy advice, and no access to independent redress of things go wrong.
- 3.71 The CMA noted in their response to the Call for Evidence on the DfE energy Strategy⁶⁷, 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 stated as the opportunity to address this and prevent off-grid consumers from being left behind.
- 3.72 Trade associations exist across the UK and Ireland for unmetered fuels and have in place documents such as a Code of Practice and Consumer Charter. However these are voluntary arrangements that suppliers are under no obligation to sign up to. There is also a low level of consumer awareness of such documentation.
- 3.73 Again, similar recommendations were made as have been highlighted elsewhere including developing a formalised complaints process. Other recommendations included standardising the support available, particularly for vulnerable consumers.

Other potential future heating sources

- 3.74 Beyond energy efficiency measures and how future consumers source their heat, there is uncertainty regarding the potential pathway for decarbonising heat in buildings. The NI Energy Strategy sets out potential roles for both electrification and hydrogen. Moreover, action 13 of the Energy Strategy work is on reviewing legislation for low carbon heat installations, and action 15 on developing and delivery of a low carbon heat demonstrator project.
- 3.75 Heat networks are a more established source of heating in GB than in NI, with approximately 14,000 heat networks across the UK⁶⁸ and only 94 identified in NI⁶⁹. There is currently no form of regulation around them.
- 3.76 In the May 2022 response to the seventh report into Decarbonising Heat in Homes by the BEIS Select Committee⁷⁰, it was stated that to “decarbonise

⁶⁶ [Livingwithoutmainsgas.pdf \(citizensadvice.org.uk\)](https://citizensadvice.org.uk/living-without-main-gas/)

⁶⁷ [Energy Strategy - Call for Evidence | Department for the Economy \(economy-ni.gov.uk\)](https://economy-ni.gov.uk/energy-strategy-call-for-evidence/)

⁶⁸ [Heat networks - POST \(parliament.uk\)](https://parliament.uk/heat-networks-post/)

⁶⁹ [heat_networks_final_report.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/heat-networks-final-report)

⁷⁰ [Decarbonising heat in homes: Government Response to the Committee's Seventh Report of 2021-](https://www.beis.gov.uk/decarbonising-heat-in-homes-government-response-to-the-committee-s-seventh-report-of-2021-)

domestic heating in time to deliver net zero by 2050, the Government must provide clear, strategic direction and guidance.” This includes production of a heat technology road map to set out the milestones for rolling out different low carbon technologies and energy efficiency upgrades.

- 3.77 In a Changeworks / Citizens Advice report *Different Rules for Different Fuels*⁷¹, the requirement for greater, and more consistent, consumer protections for district heat consumers was identified. A voluntary scheme that existed to provide consumer protections was identified as something that suppliers had “no plans” to join. It was recommended that Scotland should consider introducing a statutory licence (something Scotland was identified as having the competency to introduce) that would contain statutory consumer protections for district heating consumers.
- 3.78 However, perhaps rather than reflecting suppliers using rules to play the game, they stated the need for greater consumer protections. A key recommendation was for greater support provided to suppliers to ensure they are able to meet customer expectations. The need for minimum technical standards was also identified to ensure efficient operation. Easily accessible, transparent information in relation to billing/pricing and contractual information, as well as easy access to redress including compensation and dispute resolution if standards were not met and effective complaints handling procedures were recommended. Guaranteed standards of service should be obtained by customers in relation to:
- Faults being dealt with effectively and efficiently;
 - Debt handling (sensitively);
 - Billed regularly and accurately;
 - Fair heating contracts; and
 - Appropriate support for vulnerable people.
- 3.79 These findings were echoed in BEIS research into *Heat Network Consumer and Operator Experiences*⁷² That identified issues with provision of clear and consistent information to consumers, issues with the design and build of new housing impacting the performance of district heating. Heat Trust is a non-profit organisation that sets standards and rules on heat networks. When a heat network is registered with Heat Trust, the customer should benefit from

[22 \(parliament.uk\)](https://www.parliament.uk)

⁷¹ [Different rules for different fuels | Changeworks](#)

⁷² [Qualitative Research with Consumers and Operators of district Heating Networks \(publishing.service.gov.uk\)](#)

the standards set. Heat Trust themselves identified in their 2018 Annual Report that they would “encourage a greater focus on consumer outcomes to allow different types of supplier flexibility in how outcomes are achieved.”⁷³ There is even linkage with the Energy Ombudsman for Heat Trust to obtain feedback on complaints it receives from customers on registered sites.

- 3.80 The Competition and Markets Authority (CMA) research⁷⁴ identified that better consumer outcomes were achieved for those consumers living on heat networks registered with Heat Trust. However as a voluntary scheme, it was also identified by BEIS and Citizens Advice that suppliers are generally not registering with the Heat Trust scheme, with evidence of there being heat network consumers with no awareness of it. Heat networks are now increasingly becoming contractually required to register with Heat Trust to access government funding but there is still no mandatory requirement for registration.
- 3.81 The CMA also identified the Code of Practice developed by the Chartered Institution of Building Services Engineers (CIBSE) which has raised standards and linked this to a voluntary Quality Assurance Scheme to ensure heat networks are built to minimum standards based on the Code of Practice. However it was stated in the CMA report that although industry should lead on technical standards, BEIS will still engage with industry to develop proposals on how they should be mandated.
- 3.82 The BEIS Committee report into decarbonising heat⁷⁵ identified that legislation now introduced in Scotland requiring each heat network schemes to receive individual consent from a central body before it is allowed to develop, whereas local authorities play a greater role in England where it is deemed less feasible for one central body to oversee activity.
- 3.83 A question arises however as to how the guaranteed service provision sits in a PBR model. In further Citizens Advice research into Consumer Expectation of Regulation in Heat Networks⁷⁶, the majority of residents across GB consulted with during the research (although not a statistically robust sample) identified they were mostly dissatisfied with using heat networks.
- 3.84 This dissatisfaction related to price (extreme variation identified across different houses and locations), unreliability, and lack of flexibility to switch supplier. As a result, a large number of heat network consumers were found

⁷³ [Heat Trust Annual Report \(heattrust.org\)](https://heattrust.org)

⁷⁴ [Heat networks: ensuring sustained investment and protecting consumers \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁷⁵ [Decarbonising heat in homes \(parliament.uk\)](https://parliament.uk)

⁷⁶ [Consumer Expectations of Regulation: Heat Networks - Citizens Advice](#)

needing to contact their supplier, with the majority feeling the information they were provided with being “vague and sometimes incorrect”. It was identified in the research this caused particular concern for the vulnerable consumers.

- 3.85 Other issues included no forewarning of staff arriving at customer homes along with a lack of official documentation or uniform, poor quality workmanship, and no follow up to address any consumer issues. Based on these concerns, Citizens Advice developed an objectives based model that bases goals on similar factors identified in the Different Rules for Different Fuels report for inclusion such as complaints handling, quality standards, customer support and pricing. This can be found at Appendix VIII.
- 3.86 Thinking back to the NAO FABRIC approach, definitive activities can be linked to overarching objectives relating to complaints, standards, support and pricing. In turn, different tools for tracking and measuring progress of activities that are designed to achieve objectives can be established, such as relevant metrics or key performance indicators.

Future Role of Smart Metering

- 3.87 An additional core point identified in both the BEIS Retail Market Strategy and a CEER report on Dynamic Price Implementation⁷⁷, is that dynamic pricing structures can only be enabled through the use of smart meters and the data obtained from them. Smart metering can provide energy suppliers with the opportunity to see when consumers are not being supplied with energy so they can offer timely support.
- 3.88 However, with the rapid technological change involved in the transition there is a risk that *information asymmetries* between regulators and companies will only increase. This may lead to companies having an ever greater understanding in comparison to the regulator of their costs and the context within which they operate, once again putting consumers at risk of exploitation rather than information being used to protect them. “If regulators overlook these asymmetries, they cannot regulate effectively to reduce costs for consumers.”
- 3.89 A Code of Practice⁷⁸ is in place in GB for smart meter installations which that licenced suppliers must follow, and requires that the consumer is provided with:

⁷⁷ [CEER Recommendations on Dynamic Price Implementation](#)

⁷⁸ [Smart meters: a guide for households - GOV.UK \(www.gov.uk\)](#)

- Energy efficiency advice, tailored to their circumstances;
- An opportunity to have a demonstration of the installed system, including relevant information for prepayment and vulnerable consumers;
- Ability to provide permission in advance of installer visits; and
- Health & Safety, privacy as well as accuracy standards are also set down in the CoP.

3.90 It has also been identified by BEIS in the report that there will be an ever-growing demand for the deployment of smart meters, as well as “internet-of-things”⁷⁹ connected devices, which in turn will facilitate the development of heat as a service. This will allow companies to sell consumers heat as a final service rather than the individual pieces of kit they are currently obliged to purchase such as boilers and fuel. Through providing suppliers with data-set on the characteristics and usage of energy within a building, enabling more optimal usage of heat.

3.91 The new Energy Bill⁸⁰ introduced into Westminster seeks to minimise the cyber security risks associated with the mass adoption of these devices, placing appropriate protections in place for consumers.

3.92 The Bill provides Government with powers to introduce regulations for energy smart appliances so that these meet minimum technical requirements for cyber security, interoperability, data privacy and grid stability⁸¹.

Electric Vehicles

3.93 European Environment Agency has published a document on Electric Vehicles in Europe⁸², providing a non-technical summary on EVs that set out factors that may concern potential purchasers of EVs. Included within these primary concerns were:

- Total cost of EV ownership: In the absence of a national subsidy, an EV can be up to €10,000 more expensive than a vehicle with internal combustion engine (ICE). The savings that can be obtained through using an EV in comparison to an ICE therefore are more likely to be obtained by those that can afford the initial outlay. A further imbalance is created if those that can afford an EV are availing of government

⁷⁹ [What Is the Internet of Things \(IoT\)? | Oracle United Kingdom](#)

⁸⁰ [Energy Bill \[HL\] publications - Parliamentary Bills - UK Parliament](#)

⁸¹ [Energy Security Bill 2022 Consumer Protection and Smart Appliances \(cms-lawnow.com\)](#)

⁸² [Electric vehicles in Europe — European Environment Agency \(europa.eu\)](#)

support to promote uptake while those that cannot afford the initial outlay may remain using an ICE with increasing costs for some time.

- Lack of availability or choice of modes which reduces ability to match EVs for purchase with consumer needs. There is currently a smaller market for EVs in comparison to ICE vehicles which means manufacturers do not currently offer the same variety of different configurations for ICE vehicles. This can mean a difficulty in finding a model to match individual need e.g. battery capacity to match driving patterns. It can also mean a number of models only come as “state of the art” with many technical extras that generate a higher purchase price.

3.94 Other concerns that echo what has been stated for other technologies were also stated such as:

- Limited availability of information and advice on different models, as well as general uncertainty surrounding the technology itself. Consumers consider EVs as a recent development and have concerns over vehicle range, charging availability and costs.
- They have limited insight into the capabilities of modern EVs and non-users have been found to expect more problems in everyday use than is experienced by actual users. At present most car-labelling schemes in EU member states do not provide information that is tailored to battery electric or plug-in hybrid vehicles such as information on driving range.

3.95 Similar issues to those identified in general electricity pricing and contract arrangements were found for EVs in Ofgem’s report into Enabling the transition to electric vehicles⁸³. If more complex tariff arrangements exist in the future, due to bundling of products, there is a risk of greater complication of offers that are even more difficult to compare for consumers. EV charging at home, as well as potential for different costs for different charging locations, may create new circumstances whereby consumers find themselves in need of protection. The legislative basis for regulation will need to enable an approach whereby regulation itself can evolve as necessary to keep pace with consumer interests.

Summary: Coverage of Future Consumer Protection Needs

The UK Government Energy White Paper identified there will be no single technology alternative to fossil fuels. Electric heat pumps, hydrogen, green gas

⁸³ [Electric vehicles: Ofgem’s priorities for a green fair future | Ofgem](#)

and heat networks have all been identified as having a role to play in enabling decarbonisation in domestic consumer heating.

TrustMark is the GB Governmental quality assurance endorsement logo. It provides homeowners installing new energy technologies with “assurance, certainty and protection”. TrustMark registered businesses are vetted and monitored, with a requirement placed on them to demonstrate they meet minimum standards in technical competence, customer services and trading practices. Clear and simple dispute resolution process also needs to be in place when an installer is registered with TrustMark.

However, it has been identified in many reports that there is a complex certification landscape for traders and installers with other organisations including Microgeneration Certification Scheme, Home Insulation and Energy System Contractors Scheme, and the Renewable Energy Consumer Code (RECC). 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 as well as competition between each of them. A single unified code could reduce the complexity for contractors and consumer to navigate while also combining best practice in one place.

More fundamentally there is no mandatory obligation on traders or installers to register with any scheme. Registration with TrustMark is voluntarily entered into if retrofitting work is completed as part of a Government backed scheme. Consumers are therefore not guaranteed protection if things go wrong due to mis-selling, or have a guaranteed complaints process or guaranteed outcomes if the installer is not registered with TrustMark. It needs to be considered if there may be a need for a mandatory code to provide consumers with protections they are afforded elsewhere in telecommunications or banking and insurance and can be enforced if it is not being complied with.

The more the transition develops, the more scope there can be for consumers to be mis-sold and consumer protections weakened. Irrespective of whether any code is mandatory or voluntary, a government backed quality assurance logo may only work effectively if it is the single trusted source for providing such assurance.

Solar & Battery Storage:

These technologies were identified as an example of what is contained within the RECC but for which there are a significant number of complaints about in GB in relation to mis-selling and false claims about performance.

The complexity and number of different codes and schemes has provided installers with an opportunity to state they are MCS registered for installing battery storage, even though the MCS does not currently cover this.

Heat Pumps:

These were identified across the EU as the most affordable option for consumers to decarbonize heating, but also therefore needing a consumer rights upgrade to match those already existing for electricity consumers. Heat pumps have variation in design, technical performance, and amount of information and advice that consumers can use. However, Sweden and Switzerland provide examples of how when quality labels are utilised correctly they are able to raise the installation and product standards for consumers. As stated, it needs to be considered how any standards for heat pumps (and other

technologies) will protect consumers. This includes when standards are also aligned with any attempts to deliver energy from more indigenous sources, including indigenous technology.

Energy Efficiency:

The delivery of energy efficiency installation and measures in domestic premises is one that has been explored, and on which work has been delivered throughout GB and RoI.

It is an example of how when more generally retrofitting homes, consumers will embark on a complete journey with consumer protection implications at each stage including: Pre-contract; the contractual and installation delivery phase; post-contract.

The gaps identified in the delivery of retrofitting and delivery of energy efficiency installations were found in: 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.

Consumers 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 installer; quality management; customer care; contractual arrangements; guarantees and warranties; the requirement for a properly trained and skilled workforce. Enforcement of these has been found as critical to the success of any programme of work.

Hydrogen:

This is an example of a technology that is further in the future as being an option for decarbonising heat for consumers as is still a trial stage. However although it is not a point where it is ready for deployment, trial homes and villages will exist therefore have consumers that will still require protection.

Future upgrades of domestic premises for hydrogen has consumer protection considerations that should likely be considered for all future heat consumers e.g. how and when an engineer or installer will access a property, but also other specific areas for consideration e.g. compatibility with existing infrastructure.

The need for greater understanding of hydrogen as a gas; how to ensure accurate metering of hydrogen use; and the occurrence and impact of combustion of potential by-products such as nitrogen oxide where all identified as needing further investigation.

Potential coverage of Oil, LPG and solid fuels:

Following reports of profiteering in the cold winter of 2010/11 in the UK, it was identified that regulation for these energy sources does not currently exist as they are not natural monopolies. Therefore regulation of such fuels, that do not incur the same transmission and distribution costs of gas or electricity, may not be effective for oil, LPG and solid fuels, the price of which are determined as commodities.

It has also been identified that GB consumers of these fuels therefore miss out on the consumer protections that other energy consumers can avail of. This

includes an absence of protection when being in debt to a supplier, no requirement for a supplier to provide energy advice, and no access to independent redress when things go wrong.

Heat Networks and other heat sources:

Consumer dissatisfaction exists in relation to extreme variation between price, reliability and switching flexibility depending on which heat network a consumer may be connected to. Similar issues as identified with other heat sources including poor quality workmanship at installation stage, complaints handling, quality standards, customers support and complaints follow up, and pricing have also been identified.

Future role of smart metering:

The same primary consumer protection considerations have been identified for smart metering. In GB a code of practice is in place for smart metering installations. This stipulates the consumer must be provided with energy efficiency advice tailored to their circumstances, an opportunity to have a demonstration of the installed system, ability to provide advance permission for installer visits, and health, safety and privacy standards.

Electric Vehicles:

European consumers have identified a number of potential concerns with purchasing EVs including:

- **Total cost of ownership:** The potential savings to be obtained from an EV will only be obtained by consumers that are able to afford the initial financial outlay. This could potentially create a group of consumers that will be left behind with internal combustion vehicles that will have ever increasing costs.
- **A lack of availability of choice** between models reduces the capacity for selecting a model that is most suitable for individual needs e.g. battery capacity matching driving patterns, and also can mean only “state of the art” options are available which have increased prices than other models that could have fewer add-ons but therefore a reduced cost.
- **Limitations to available information and advice** were also stated as a concern, as well as general uncertainty regarding the technology itself. There are EU countries that do not include information on EVs in their car-labelling scheme such as information on driving range.
- Issues were also identified with how EVs may result in **more complex tariff arrangements for consumers due to potential bundling of products** and more complicated offers that are difficult to compare for consumers. Consumer protections and regulation will likely need to become more agile and keep pace with ever evolving consumer needs and interests.

4. Business Practices

Pricing and Billing

- 4.1 Future energy pricing models will likely reflect the more dynamic future energy model that will exist. This includes a number of different ways for costs to find their way to the end consumer. The European Clean Energy Package⁸⁴ defines dynamic electricity pricing as a contract between a supplier and customer that reflects the price at the spot market or day ahead market at intervals at least equal to the market settlement frequency.
- 4.2 How prices are currently allocated throughout the energy system has evolved over time, leading to a complex structure that makes achieving a new pricing structure more difficult. The existing framework does not easily allow energy suppliers to incentivise behaviour in such a way that could effectively minimise the costs of achieving net zero.
- 4.3 A research paper by CERRE *Retail Markets Under Stress*⁸⁵, identified how well intentioned regulatory measures may undermine the workings of the market. In GB which operates a retail market price cap, it was not clear Ofgem understood the impact large wholesale price rises could have on supplier financial sustainability. It was found a greater amount of stress testing supplier business models should have been performed to assess their sustainability when a price cap was in place. Consumers should also have had more information on the financial risk profiles of suppliers that have recently failed. In GB the price cap was put in place to avoid excessive prices but drove margins to levels where suppliers no longer wanted to compete for customers.
- 4.4 The Regulator in the Netherlands did test the risk exposure of retailers but this was found ineffective as it was not stringent in approach. The cap on the penalty for customers breaching their contract has resulted in suppliers unwilling to offer long term contracts. This has left Dutch consumers with little ability to hedge against the possibility of volatile or higher future prices.
- 4.5 A research paper released by the Financial Conduct Authority (FCA) in 2019⁸⁶ on price discrimination in financial services identified two key aspects of fairness that should be distinguished when assessing consumer outcomes. The first, procedural fairness, has been discussed so far in this review and is essentially assessing how fairly consumers are being treated.

⁸⁴ [Clean energy for all Europeans package \(europa.eu\)](https://european-council.europa.eu/media/en/press-articles/detail/11700)

⁸⁵ [Retail Energy Markets Under Stress - CERRE](#)

⁸⁶ [price discrimination in financial services.pdf \(fca.org.uk\)](#)

It is key as it ensures that consumers pay the 'right' price. This is provided through consumer protection.

- 4.6 The second is distributive fairness, which is assessing if it is fair that certain consumers may be paying more than others for their energy, as protecting some consumers from harm may have to be at the expense of others. This is therefore more about political decisions, for example social costs and re-allocation of wealth to benefit those who are vulnerable or less well off.

4.7 **Case Study: GB Warm Homes Discount Scheme⁸⁷**

An example of how *fairness* is embedded into the pricing arrangements in GB is through the delivery of the Warm Home Discount scheme. This scheme provides the opportunity for participants to obtain a one-off discount on their electricity bill of £140 for the winter period, between October and March. The discount is means-tested and participants are required to either be in receipt of pension credit, or on a low income. The discount is applied onto bills by suppliers and therefore funded through the income obtained from other electricity customers. This scheme assists approximately 2 million homes in GB but is something that NI households do not currently receive.

- 4.8 Essentially, a balance is to be struck in the relationship between desired economic outcomes and the level of fairness (or how beneficial / harmful) outcomes are for consumer groups. The FCA has identified six key questions to enable assessment of concerns regarding fairness when establishing if it should intervene in the market:
1. Who is harmed by price discrimination (wealthy or vulnerable)?
 2. How much (in terms of profitability) are these individuals harmed by price discrimination?
 3. How significant (size / quantity) is the pool of people harmed?
 4. How are firms price discriminating (transparently or hidden)?
 5. Is the product/service essential?
 6. Does society view the price discrimination as egregious/unfair?
- 4.9 Following assessment through utilising these questions, three possible

⁸⁷ [Warm Home Discount Scheme: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/warm-home-discount-scheme-2020-21)

approaches are identified by the FCA if intervention is deemed necessary:

1. Those that remove necessary conditions for price discrimination;
2. Those that reduce commercial incentives for price discrimination; and
3. Formal constraints on prices (e.g. caps, uniform pricing).

4.10 As part of its larger programme of Fairness for Customers programme of work⁸⁸, Ofcom also identified five key questions that it has set out when assessing if customers have been treated fairly:

1. How do providers treat customers throughout the customer journey?
2. Who is being harmed?
3. What is the extent of the harm?
4. How important is the service?
5. Does the service depend on risky new investment?

4.11 There are clear overlaps between the questions set out by Ofcom and those by the FCA. One common thread is that price discrimination may be beneficial and may be perceived as fair or unfair, depending on the circumstances. It must be assessed on a case-by-case basis, although Ofcom also identifies practices that are more likely to be regarded as unfair:

- Exploiting market power over certain consumer groups;
- Attempting to mislead or hide relevant information;
- Exploiting characteristics or behavioural biases which impair some customers ability to make well-informed decisions / not in their interest
- Exploiting characteristics such as a lack of competition in some geographic locations which put some customers at a disadvantage relative to other customers; and
- Exploiting market failures or behavioural biases to provide a service quality which does not meet reasonable expectations.

4.12 In the October 2019 National Infrastructure Commission's (NIC) report *Strategic Investment and Public Confidence*⁸⁹ recommended that regulators

⁸⁸ [Making communications markets work well for customers – a framework for assessing fairness in broadband, mobile, home phone and pay TV \(ofcom.org.uk\)](#)

⁸⁹ [Strategic Investment and Public Confidence \(nic.org.uk\)](#)

should be given clear powers to swiftly constrain companies' abilities to charge different customers different prices where this cannot be demonstrated to provide an overall benefit to consumers.

- 4.13 Providing the capacity for an administrative compliance and enforcement model would strengthen the ability to address consumer detriment. This includes requiring companies to report annually on which groups of consumers are paying more for the same service, and the ability to make companies change their price structure where price discrimination cannot be justified.
- 4.14 Another point of note in the NIC report is that both "*Government and regulators cannot rely on a flawed assumption that market design and distributional consequences can be separated.*" It has been recommended that regulators should publish an analysis of the distributional consequences for consumers and business of their proposals, and the impact of possible mitigations for significant adverse effects. A process should therefore also be in place to evaluate how the causal impact of interventions will be evaluated.
- 4.15 The NAO report on performance management⁹⁰ identifies that although regulators may often appraise a regulatory intervention before it begins, post-implementation reviews, after an intervention or at a specified review point, will also be of value. Such a review mechanism can provide a link between appraisal to assess if the original purpose of an intervention is being met and identify what changes may be required at an early stage.
- 4.16 A report by the Brattle Group to the Victorian Distribution Business in Australia⁹¹, identified a multi-criteria analysis as a possible approach to determine how retailers, and networks, can strike a balance between competing consumer protection priorities. From a retail perspective these criteria are reflective of the overarching principles identified in section 2, and include:
- Simplicity (transparent and simple to understand price plans),
 - Economic efficiency,
 - Adaptable price plans as new technologies emerge (including bundled technology offers),
 - Affordable price plans for vulnerable consumers; and
 - Competition enabling an equitable approach to how consumers pay

⁹⁰ [Performance-measurement-by-regulators.pdf \(nao.org.uk\)](https://nao.org.uk/performance-measurement-by-regulators.pdf)

⁹¹ [electricity_distribution_network_tariffs - the brattle group.pdf](https://www.brattle.com/electricity_distribution_network_tariffs_-_the_brattle_group.pdf)

for costs they impose on the network.

- 4.17 The programme of work identified within the BEIS Retail Market Strategy⁹² indicates the need for continued consumer protection as the market undergoes large scale change to achieve such principles in a relatively short period of time. In relation to pricing this includes addressing short term issues such as identifying steps to tackle excessive loyalty charging, but also work to address more long term concerns issuing a call for evidence on energy consumer funding, fairness and affordability to enable a “transparent” discussion on costs.
- 4.18 The first point identified by the Battle Group on Simplicity matches the second Simplicity principle within the ASPIRE vision, including around transparency of pricing. These also tie back with the requirement for transparency and disclosure identified in the UN Guidelines for Consumer Protection. However as identified through lab research conducted on price transparency in conjunction with a national energy regulator by Economic and Social research Institute in Trinity College Dublin (ERSI), any costs associated with intervention need to also be weighed against estimated benefits⁹³.
- 4.19 Moreover, affordable price plans for vulnerable consumers is something that has been identified at a both at a UK level by the Energy UK Commission for Customers in Vulnerable Circumstances⁹⁴ and in the European Commission (EC) Working Paper on Fuel Poverty for consideration.
- 4.20 The work by Energy UK and European Commission, indicates a regulated social tariff, targeted to a well-defined group of fuel poor consumers, is a mechanism that could provide smart assistance to those that need it in a way that reduces the need for blanket price regulation.
- 4.21 Some European stakeholders however have differing conclusions. The body that represents the EU electrical industry, Eurelectric, suggests that social policy should be the approach undertaken to combat energy poverty, with aid coming from government budgets, rather than subsidised through social tariffs⁹⁵.
- 4.22 However as a consumer centric organisation, BEUC identifies that a mixture of state support alongside adoption of social tariffs, may be the correct approach, something that correlates with what is stated in the EC Working

⁹² [Energy retail market strategy for the 2020s - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/energy-retail-market-strategy-for-the-2020s.pdf)

⁹³ [Price transparency in residential electricity \(sabeconomics.org\)](https://www.sabeconomics.org/price-transparency-in-residential-electricity/)

⁹⁴ [Commission for Customers in Vulnerable Circumstances | Energy UK \(energy-uk.org.uk\)](https://energy-uk.org.uk/commission-for-customers-in-vulnerable-circumstances/)

⁹⁵ [Briefing European Parliamentary Research Service \(europa.eu\)](https://www.europa.eu/press-room/media/33242/en/briefing-european-parliamentary-research-service)



4.23 A further paper prepared for the EC sets out detail on the drivers and factors that influence and lead to energy poverty was conducted in 2016 by Trinomics in conjunction with University College London⁹⁷. This identified the two main approaches to monitoring energy poverty as:

- 1) Expenditure Based metrics which define poverty based on information about the household's expenditure in energy and comparing it with the household's income;
- 2) Consensual Based metrics which identify households that declare facing difficulty in meeting basic energy services (or perceived deprivation).

4.24 Examples of these approaches are provided such as in the Belgian Energy Poverty Barometer, and Fuel Poverty Statistics Report for England⁹⁸.

4.25 An outcomes based approach that focusses on associated features of energy poverty such as disconnections or arrears, were identified as problematic due to a lack of consistent access to data and an issue with identification of causality due to outcomes themselves relating to a multitude of factors beyond just energy poverty. There is a tension with this conclusion and the outcomes based approach discussed in section 2.

4.26 As mentioned earlier, trust between the regulator and suppliers is crucial. Another vital component identified for suppliers is the importance of clarity of objectives. The NAO report on performance management⁹⁹ highlighted the importance of accuracy, validity and completeness of information obtained for measuring performance. However, difficulties in obtaining robust information to monitor supplier performance in relation to fuel poverty may highlight this a higher risk area that requires a greater amount of direct price regulation.

4.27 To support rapid heat pump deployment it was identified by RAP in their analysis on how shape the EU Fit for 55 package for a heat pump market, that fuel pricing strategies need to ensure that heat pumps have total lower ownership costs that equivalent fossil fuel systems as green heat needs to

⁹⁹ [Performance-measurement-by-regulators.pdf \(nao.org.uk\)](http://www.nao.org.uk/performance-measurement-by-regulators.pdf)

be cheaper than fossil fuel heat.¹⁰⁰

- 4.28 In a lessons learned report into European district heating regulation for the Scottish Government, pricing was identified as the primary driver for requiring regulation of district heating. Inflexible price setting was identified as a disincentive for new participants entering the market and limiting innovation. However on the other side it was identified with the example of Germany that complete de-regulation can result in erosion of protections¹⁰¹.
- 4.29 On a more fundamental level, the simplicity and straightforwardness of pricing as a metric to enable consumers to compare suppliers is something identified as requiring a minimal amount of interpretation on the customers part and therefore readily understood by customers. The more complex a pricing structure begins to become (e.g. through utilisation of tiered tariffs) the more additional work is required by the consumer in attempting to calculate cost savings.
- 4.30 A key takeaway from research by Ofgem¹⁰² is that it is simplicity of metric information that provides its value to consumers through reducing the amount of effort of interpretation on their behalf. Linked to this is consistency of presentation, so consumers are able to compare prices across different suppliers.
- 4.31 Research conducted for the Behavioural Science and Policy Association¹⁰³ identified a CORE approach to better decision making that should be embedded into how consumers are educated about their energy use so they can make appropriate decisions for themselves:
- **Consumption:** Provide consumption rather than efficiency information;
 - **Objectives:** Link energy-related information to objectives that people value;
 - **Relative:** Express information relative to meaningful comparisons;
 - **Expand:** Provide information on expanded scales.
- 4.32 However it was also identified in this research that better energy metrics will still have a limited impact as they may do little to change the attitudes of

¹⁰⁰ [RAP-heat-pump-2-pager_FINAL.pdf \(raponline.org\)](#)

¹⁰¹ [Lessons from European regulation and practice for Scottish district heating regulation \(climatexchange.org.uk\)](#)

¹⁰² [Microsoft Word - DRAFT billing information metrics FINAL EDIT 9 4 09.doc \(ofgem.gov.uk\)](#)

¹⁰³ [Designing better energy metrics for consumers \(behavioralpolicy.org\)](#)



consumers regarding energy use and achieving net zero.

- 4.33 The Ofgem research retains consumption information in its example of a simplified energy tariff comparison table, however this is to show what a low, medium and high user of energy looks like, and how much cost they will likely incur, therefore linking the information to what meaningful comparisons that consumers can understand.
- 4.34 Such an approach would also reflect the *Transparency, Clarity and Accuracy* components of the Simplicity approach as set out in the ASPIRE principles, in that information should be simple, readily accessible and comparable, so that consumers can more easily make sustainable choices for themselves and understand the implications of their decisions.

Transparency of Contracts and Billing Information

- 4.35 Energy supply contracts themselves are something within which energy consumers are provided their pricing and usage information. Contracts are the primary place where suppliers can provide consumers with the transparent and simple to understand price plans as discussed earlier. As Northern Ireland continues to decarbonise, contracts could also be the first place where consumers are able to make informed decisions about their carbon usage.
- 4.36 The European Union now has a specific rights for energy consumers to be provided with clear information on their contract (as well as access to better deals and ability to track their energy usage)¹⁰⁴. Linked to this are¹⁰⁵:
- The right of withdrawal from a new contract within 14 days if the contract was concluded outside the supplier's business premises, by internet or by telephone
 - Access to consumption data for free, including information on how much energy is being used and how it can be used more efficiently
 - The actual prices and how much energy has been used
 - A comparison with how much energy was used by the customer during the same period in a previous year
 - Information on the mix of energy sources being used and the benefits, cost and energy efficiency savings from renewable energy sources.

¹⁰⁴ [Energy supply - Your Europe \(europa.eu\)](http://europa.eu)

105 [Contracts and energy consumption - Your Europe \(europa.eu\)](#)

- 4.37 However, whether thinking about tariff design of the future or today, consumers should pay a “fair” price for their energy. This should be regardless of how consumers engage with the market. The BEIS Energy Retail Market Strategy highlighted in the introduction of this report identifies the requirement of fair pricing as one of the primary objectives.
- 4.38 Research undertaken by Energy UK¹⁰⁶ found that there may be an over-reliance on the use of bills and annual statements as the primary means of engaging consumers to think about energy costs and consumption. Any overarching principles that could be introduced on informed choice should still ensure from the licensee:
- That the structure, terms and conditions of its Tariffs are clear and easily comprehensible
 - That its tariffs are easily distinguishable from each other
 - That it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select appropriate Tariffs within its offering, taking into account that Domestic customers characteristics and preferences
- 4.39 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. It also proposed removing altogether the information that suppliers must include in bills, statement of accounts and annual statements. This could allow suppliers to provide customers with communication that is tailored and specific.

Marketing and Information

- 4.40 Clear, easy to access, accurate information and advice on energy products and services is one of the common principles that was identified in the different approaches discussed. As stated earlier with protections for consumers utilising solar energy, the marketing of energy products is something that could become an increasingly difficult aspect to monitor the more that consumers transition to a diverse range of solutions for their energy needs.
- 4.41 The Commissioner for Regulation of Utilities in Ireland also has a CoP on Marketing and Advertising¹⁰⁷. 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

¹⁰⁶ [Rules of Engagement: Customers at the heart of communications \(energy-uk.org.uk\)](https://energy-uk.org.uk/rules-of-engagement-customers-at-the-heart-of-communications/)

¹⁰⁷ [CRU19138-Electricity-and-Gas-Suppliers-Handbook-2019-.pdf](https://www.cru.ie/publications/CRU19138-Electricity-and-Gas-Suppliers-Handbook-2019-.pdf)

those to whom the information is addressed.

- 4.42 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. Such information should be:
- Easy to understand, complete, accurate, transparent and not misleading in terms of information that is provided or omitted;
 - Specified clearly the offer / product being marketed and the period it covers;
 - Communicated in plain and accessible language;
 - Relates to the products or services which are appropriate to the customer to whom it is directed;
 - Fair in both terms of its content and format of its presentation.
- 4.43 The CRU Handbook also sets out the minimum information that should be provided to consumers, detail on how information should be comparable, and how information specific to tariffs should be presented.
- 4.44 In GB an energy supplier or their representative may be failing to meet their obligations if a consumer has been subjected to high pressure selling; been misled over features of a particular service, given false information on potential savings, had their contract falsified or progressed without their consent.
- 4.45 The Consumer Protection from Unfair Trading Regulations 2008 prohibit commercial practices that are unfair to consumers. If an energy supplier misleads a customer or engages in an aggressive commercial practice and the consumer makes a decision to make a contract that they would not otherwise have done, the supplier may be in breach of the Regulations.
- 4.46 In NI there is currently a Marketing Code of Practice (MCOP) for both electricity and has business¹⁰⁸ and domestic¹⁰⁹ customers. This is a mandatory code which all suppliers must adhere to under their licences. It aims to address issues which may arise from marketing practices relating to such things as doorstep selling. The code mandates such things as the times an agent may call at a consumer's house and how they present a price

¹⁰⁸ [Appendix II Clean Marketing Code of Practice for Non-Domestic Customers February 2020 V1.0 0.pdf \(uregni.gov.uk\)](#)

¹⁰⁹ [Appendix I Marketing Code of Practice for Domestic Customer June 2015.pdf \(uregni.gov.uk\)](#)

comparison to them. This type of Code will likely apply in the future but may look different in terms of the types of practices and services it covers.

Complaints resolution and consumer redress

- 4.47 A system of Complaints and redress is the primary remedy for when such aggressive or misleading practices are undertaken, and is not just a recurring area identified in the possible approaches to principles such as ASPIRE, but is also a specific consumer protection framework identified for review in the Energy Strategy. Structures to handle consumer complaints was also identified in the above lessons learned report in district heating regulation as a fundamental element to effective regulation. Again, Germany was identified as a model that has been less effective in this area, with Denmark identified as having effective complaints procedures in place.
- 4.48 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 footnote)¹¹⁰.
- 4.49 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 avail from 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. The Energy Ombudsman is able to have 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 compensation^{111 112}.
- 4.50 The Ombudsman itself is funded by the providers signed up to the scheme. Providers pay a fee for each case reviewed and this in itself acts as an incentive for companies to resolve issues with consumers before an Ombudsman is required. The establishment of an independent Energy Ombudsman in Northern Ireland may mean it would have to develop its own consumer based objectives with related activity the progress of which is trackable and measurable.

¹¹⁰ [Approval criteria for redress schemes in the energy sector \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/approval-criteria-for-redress-schemes-in-the-energy-sector)

¹¹¹ [Energy Ombudsman: Here to help with gas & electricity complaints | Ombudsman Services \(ombudsman-services.org\)](https://www.ombudsman-services.org/en/energy-ombudsman)

¹¹² [Complain to the energy ombudsman - Citizens Advice](https://www.citizensadvice.org.uk/energy/energy-ombudsman/complain-to-the-energy-ombudsman)

- 4.51 Moreover, it has been identified by BEUC that while there is clarity on what forms of redress should exist in relation to the relationship between customer and supplier, there is less clarity on any new business models that might not be considered under the Electricity Directive and therefore not mandated to participate in any out-of-court mechanisms¹¹³. It was recommended that member states should ensure that these services are also covered in out-of-court dispute settlement mechanisms.

Minimum service level standards / codes of practice

- 4.52 A Code of Practice which is mandated within a supply licence could set the overarching principles and minimum requirements that suppliers should adhere to and demonstrate compliance with. This would include the baseline minimum outcomes that are expected for all consumers as well as additional protections that are required for more specific groups such as vulnerable consumers.
- 4.53 An example of the type of changes that could be made includes those made by Ofgem in 2019 to their guaranteed standards to ensure that suppliers provide compensation when domestic customer switches are delayed or when customers are erroneously switched¹¹⁴. If either of these occur then a customer should receive a £30 standard payment from the gaining supplier. When the issuance of final bill has been delayed then a £30 standard payment is to be made by the losing supplier. However this is an example of imposing penalties on suppliers for failing to adhere to quite prescriptive rules.
- 4.54 An overall finding in a UK Government review of the energy sector published in 2016 found that adhering to the required legislation, codes and rules was burdensome. Supply licences were viewed as having grown in complexity, with code changes too costly which is an issue if they are potentially under continual change¹¹⁵. Moving to a principles based approach was seen as a way of reducing the size of the supply licence and an approach that places greater emphasis on companies to take their own, proactive steps, to understand what is right for each consumer so they can deliver good outcomes. Similarly to previously identified, what is expected from Ofgem is then a more risk based approach to enforcement which targets its resources in way that will contribute to all energy consumers receiving a consistent baseline level of service.

¹¹³ [beuc-x-2019-055 the future of energy consumers.pdf](#)

¹¹⁴ [Supplier Guaranteed Standards of Performance for Switching: Second Phase - Final Decision and Statutory Instrument | Ofgem](#)

¹¹⁵ [Cutting Red Tape: review of the energy sector \(publishing.service.gov.uk\)](#)

- 4.55 A “Licence-Lite” approach was also identified as an option that could be introduced by Ofgem to help new suppliers enter the market. This would partner a new entrant with an existing supplier that would take responsibility for some aspects of fulfilling licence obligations which are particularly costly or complex. This could not just enable a greater number of market entrants but also a greater diversity.
- 4.56 Energy UK undertook a review of customer communication within supply licence conditions on behalf of Ofgem in 2017¹¹⁶. It concluded that regulation of customer communications has become too prescriptive which restricts both consumer choice and capacity for innovation. A ‘one size fits all’ approach to customer communication is no longer appropriate.
- 4.57 The review undertaken made findings that support what has been stated in the other principles based approaches identified when focussing on information provided to consumers. It was identified that all information provided to energy customers should be simple; relevant; personalised; something the customer will value; accessible; and flexible in meeting the changing preferences and demands of customers.
- 4.58 From undertaking a literature review one of the key findings was that the energy dynamic is now constantly changing and shifting. What might be an effective method for communicating with consumers may have a reduced impact in the future due to this changing environment, with a requirement for future-proofing licence conditions needed to manage this.
- 4.59 The report stated future customers need sufficient information to be able to:
- 1) Pay for energy;
 - 2) Know where to seek assistance in relation to their energy;
 - 3) Complain if something goes wrong;
 - 4) Know what to do in an emergency;
 - 5) Find a deal to suit their characteristics and preferences; and
 - 6) Be aware of and understand contractual obligations, rights, changes and events
- 4.60 However, although a principles based approach to consumer protection is primarily focused on providing a framework for suppliers to set about identifying how they can best achieve good outcomes, as identified earlier in

¹¹⁶[Putting customer at the heart of communications \(energy-uk.org.uk\)](https://energy-uk.org.uk/putting-customer-at-the-heart-of-communications)

this review, there will still need to be some areas a regulator may want to provide greater specificity in what is determined as a requirement from a supplier. The Energy UK research noted the fourth point on consumers knowing what to do in an emergency, could be an example of where benefits could still be found in ensuring a minimum standard of information provided to all customers, and that is also provided in a consistent manner.

- 4.61 Informed Choice principles essentially may need to work in tandem with an amended Standard of Conduct (SoC), to provide a framework that offers sufficient regulatory oversight when moving forward in the transition.

Summary: Business Practices

Pricing:

A more dynamic future energy model will likely be contained a more dynamic structure of future pricing models, including a number of different ways for costs to find their way to the end consumer. Contracts are the primary place where suppliers can provide consumers with the transparent and simple to understand price plans.

When considering how tariffs are designed, “fairness” for all consumers need to be a key consideration. If price discrimination is introduced e.g. through social tariff, it needs to be considered who and in what ways different consumer groups are affected by such an approach.

Affordable price plans that are targeted towards a clearly defined group of fuel poor and / or vulnerable consumers through delivery of a well regulated social tariff is a mechanism that could provide needed assistance to such consumers in a way that also reduces the need for blanket regulation. Through the development of a better understanding of the circumstances of and conditions of fuel poverty, a social tariff can be successfully delivered as part of an overall policy mix which should include a fuel poverty strategy.

In terms of how energy suppliers deliver prices and tariffs, it has been recommended by the National Infrastructure Commission in Gb that regulators should be given clear powers to swiftly constrain companies’ ability to charge different customers different prices where this cannot be demonstrated to provide an overall benefit for consumers.

There are other business practices 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 impair some customers ability to make well-informed decisions / not in their interest
- Exploiting characteristics such as a lack of competition in some geographic locations which put some customers at a disadvantage relative to other customers; and
- Exploiting market failures or behavioural biases to provide a service quality which does not meet reasonable expectations.

The simplicity and straightforwardness of pricing has also been identified as

something that can enable consumers to compare suppliers and understand what they are paying. The more complex a pricing structure is, the more additional work is required on the part of the consumer to calculate costs. The simplicity of the information and how it is provided to consumers can determine how successfully pricing can be used as a metric for consumers to determine which product is suitable for them and monitor expenditure.

The Behavioural Science and Policy Association identified CORE approach to better decision making that can enable consumers to make better decision for themselves:

- **Consumption:** Provide consumption rather than efficiency information;
- **Objectives:** Link energy-related information to objectives that people value;
- **Relative:** Express information relative to meaningful comparisons;
- **Expand:** Provide information on expanded scales.

The requirement for transparent, clear and accurate information is something identified throughout the different principles based approaches to consumer protection as it enables consumers to make better and more sustainable decisions for themselves.

Billing:

Research undertaken by Energy UK found that there may be on over-reliance on the use of bills and annual statements as the primary means of engaging consumers to think about energy costs and consumption. Any overarching principles that could be introduced on informed choice should still ensure from the licensee:

- That the structure, terms and conditions of its Tariffs are clear and easily comprehensible
- That its tariffs are easily distinguishable from each other
- That it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select appropriate Tariffs within its offering, taking into account that Domestic customers characteristics and preferences

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. It also proposed removing altogether the information that suppliers must include in bills, statement of accounts and annual statements. This could allow suppliers to provide customers with communication that is tailored and specific.

Contracts:

The EU has set out a specific right for energy consumers to be provided with clear information on their contract. EU energy consumers also have the right of withdrawal from a new contract within 14 days; access to consumption data for free (including how energy could be used more efficiently and comparison with previous year); information on the mix of energy sources being provided including detail on benefits of renewable

energy.

Marketing:

Again, clear, easy to access, accurate information and advice on energy products and services has been identified as a fundamental 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. Consumers will need protection from high pressure selling; being misled over features of a particular service; being provided with false information on potential savings; or having a contract falsified or progressed without consent. The Consumer Protection from Unfair Trading Regulations are what protect consumers in GB, but there may need to be consideration given to whether or not additional protections are needed for energy consumers in this area or adjustments to those which we already have such as the supplier Marketing Code of Practice as the transition progresses.

Complaints resolution and consumer redress:

In GB, consumers can avail of an Alternative Dispute Resolution process if an energy company fails to resolve a complaint themselves. GB consumers are then also able to avail of an independent energy ombudsman which provides a further layer for attaining resolution to a complaint. Consumers are able to register complaints that have not been satisfactorily resolved with an energy ombudsman, which is something that does not exist in Northern Ireland. As providers pay a fee for each case reviewed by the Ombudsman, this incentivises a better standard of initial handling of complaints on their behalf. NI consumers are therefore perhaps being deprived of a service that could improve outcomes for them in relation to complaints and redress.

5. Which consumers to protect

All Consumers

5.1 In the previous sections, baseline consumer protections have been identified which need to be considered for all consumers. As stated, the adoption of a principles based approach to regulation is essentially an approach that is focussed on outcomes that all energy consumers should be able to avail from. Common principles that emerged across the different principles based approaches reviewed include:

- 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.

Vulnerable Consumers

5.2 The principles identified in Section 2 commonly identified the need to have specific protections in place for vulnerable consumers. The ASPIRE principles noted that when seeking to adopt an approach to consumer protection that is inclusive, that low digital literacy is one aspect of what can lead to additional vulnerability experienced by an energy consumer.

5.3 Citizens Advice found in their report *Treating Consumers Fairly*¹¹⁷ the understanding of consumer vulnerability should be seen less as a constant state that some consumers exist in with certain characteristics. Instead vulnerability should be viewed from the perspective of a particular consumers experience being one whereby they have difficulty in accessing or using services or in dealing with communications. Moreover, consumers can actually be placed in a vulnerable situation by a service provider's inability to provide an inclusive service.

5.4 BEUC in a report into the future of energy consumers¹¹⁸ have identified a number of different hallmarks of future European energy consumers that can lead to different ways a consumer can experience vulnerability, including:

- An increasing number of consumers that are likely to rent rather than

¹¹⁷ [BS18477 benchmark report \(citizensadvice.org.uk\)](https://citizensadvice.org.uk/BS18477-benchmark-report)

¹¹⁸ [beuc-x-2019-055 the future of energy consumers.pdf](https://beuc-x-2019-055-the-future-of-energy-consumers.pdf)

own a house. This is an overall trend that is already clear.

- Less people will be able to make investments paying upfront, with more consumers also having difficulties accessing credit
- The European population is continuing to get older, and policies will need to consider this growing number of older energy consumers that are more likely to experience vulnerability due to additional needs
- Digital exclusion exists due to a digital gap between consumer groups within EU member states, which can lead to the digitally excluded being left behind. The importance of ensuring these consumers are not left behind was highlighted, with those with a lack of access to digital services being stated as still requiring the same level of customer service that other consumers receive.

5.5 The following is an outline of the approach the FCA has been adopting in relation to the expectations from, and guidance they provide to, financial firms on product and service development and delivery for vulnerable customers.

The FCA have published guidance¹ for firms on the fair treatment of vulnerable customers which sets out the FCA view of what firms should do to comply with their obligations under the Principles for Businesses¹. To achieve good outcomes for vulnerable customers firms should:

- Understand the needs of their customer base
- Make sure staff have the right skills and capability to recognise and respond to the needs of customers in vulnerable circumstances
- Monitor and assess whether they're meeting and responding to the needs of customers with characteristics of vulnerability and make improvements where this is not happening

Another important aspect highlighted by the FCA is the expectation on firms to produce, and regularly review, management information on the outcomes they are delivering for customers in vulnerable circumstances. The FCA provide guidance to firms on the types of MI firms may want to collect including:

- Customer feedback
- Behavioural insights
- Feedback from specialist support services

Inconsistent quality standards of MI information across business areas, sometimes as a result of legacy systems, has acted as a hindrance in performing effective review of outcomes being obtained for vulnerable customers. This has also lead to an over-reliance on certain types of information, such as complaints data, as an indicator of vulnerable customer outcomes.

The FCA identified that higher quality MI that is effectively captured from across multiple areas of a business is needed for firms to obtain better levels of insight and assurance over service provision to vulnerable customers.

MI also needs to provide insight into whether staff training is resulting in improved outcomes for customers in vulnerable circumstances.

There was also a lack of clear evidence that firms were considering the needs of customers in vulnerable circumstances when developing products and services, or making changes to an existing one.

- 5.6 The Ofcom principles in section 2.30 of this report highlighted the requirement for a specific focus on vulnerable consumers. This has a direct read across for the potential approach for energy. A key challenge will be reaching out to provide additional assistance to those who are targeted for such support as they are the consumers at risk of being left behind in the transition.
- 5.7 One of the key mechanisms for providing additional support to vulnerable consumers in GB is by adding them to a record held by energy supplies and network operators called the Priority Services Register (PSR). In 2020 a report commissioned by the Scottish Energy Consumers Commission (discussed later in this review) into the PSR in Scotland identified that although depending on the definition of vulnerability, between 43% and 63% households in Scotland could be eligible for registration. However only 20% and 15% of households were found to be registered on the electricity and gas PSRs respectively.
- 5.8 A gap analysis conducted by Citizens Advice Service (CAS) in 2018¹¹⁹ on a sample of energy industry PSRs in Scotland found that registration to the PSR are significantly constrained by a lack of awareness, with barriers to engagement including trust issues, a hesitancy to share personal information and a lack of clearly defined benefits of being registered with the PSR. The most commonly excluded from vulnerability considerations included:
- Consumers with mental health conditions
 - Low income households
 - First time occupants
 - Households that are digitally excluded
 - Consumers with reduced capacity, such as full-time carers and lone parents; and
 - Households with limited ability to interpret, such as people for whom English is not their first language or consumers with low levels of numeracy/literacy.
- 5.9 More generally, the NAO principles of effective regulation was the need for “embedding the citizen perspective”. This included generating a defined process to regularly include the citizen perspective in decision-making, including considering different groups or demographics. Moreover, where

¹¹⁹ [priority_services_registers_in_scotland.pdf \(cas.org.uk\)](https://cas.org.uk/priority_services_registers_in_scotland.pdf)

financial detriment, or harm to physical or mental health exists, an analysis of the scale and nature of this and associated cost should be undertaken.

5.10 The strategic context for Scotland undertaking this work includes an overall change in the way it views and tackles consumer issues. Part of this work has included the development of an Energy Consumer Action Plan¹²⁰ to embed ongoing consideration of consumer impacts into energy policy and decision making. A summary of action that emerged from this group includes:

- Establishing an independent Energy Consumers Commission¹²¹ to give consumers “a more powerful voice” in energy policy through considering and engaging with the unique challenges faced by a diverse range of energy consumers. This may include different ethnic groups, vulnerable consumers, age groups and other characteristics.
- The development of a consumer charter for Scotland to set guiding principles to support the collective effort needed to address consumer issues. This will have a focus on building trust between consumers and the market through developing a collective understanding of consumer challenges as well as sharing good practice and innovation.
- Introduction of a statutory duty on public authorities to place consumer interests at the heart of policy and regulatory decision making so that consumer outcomes will be reflected in the energy transition.
- Development of a Consumers Outcomes Fund to test “creative and innovative” solutions to long-standing and detrimental consumer issues. Initial ideas include work on the principles of a “sharing economy” and future energy flexibility to examine how citizens can share and donate energy to those most in need; and collective switching for those on low incomes. Dovetailing measures to address fuel poverty and achieving net zero in Scotland was highlighted as something of crucial importance, and principles to achieve this are set out in Appendix V¹²².
- Exploring how to provide more holistic support to vulnerable energy consumers including making it easier to access priority and providing more help for consumers with energy debt.

¹²⁰ [Energy consumer action plan - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/energy-consumer-action-plan/pages/1-1-introduction.aspx)

¹²¹ [Energy Consumers Commission - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/energy-consumers-commission/pages/1-1-introduction.aspx)

¹²² The DfE Energy Strategy Action Plan for Net Zero includes an action (4) on delivering £10m funding through a Green Innovation Challenge Fund. This is an example of where NI actions could build in similar consumer vulnerability / fuel poverty considerations as is being undertaken in Scotland.

- Develop an interactive data hub to provide the most comprehensive picture possible of the experience of Scottish energy consumers.

5.11 The Energy Consumers Commission for Scotland (ECC), identified in the first action point above, was established in 2020. Four themes were identified within its 2020/21 workplan¹²³, to focus activity around:

1. Energy Debt
2. Best Practice and Customer Service
3. Improving Outcomes for vulnerable consumers
4. Engagement with decarbonisation

Domestic Consumers

5.12 The *Treating Consumers Fairly* report primarily relates to vulnerable consumers using evidence obtained through its own literature review it identifies that a more inclusive approach would benefit all domestic consumers. They have concluded that a cultural shift within companies is required that should:

- reframe their perspective
- change the way they think about consumers and their business
- build 'long-term relationships' with consumers; 'earning their trust and then their business', to become 'social leaders'.

5.13 Although adherence is voluntary, an example of standardisation within service provision is the British Standard (BS) 18477¹²⁴. Within BS 18477 are areas that suppliers need to demonstrate to be compliant with the standard. These include:

- **Policies and Planning:** All staff are trained and resources, design services flexibly, anticipate problems, respond to customer feedback and complaints, and continually review existing services to identify possible improvements.
- **Flexible Services:** Empowered staff that are flexible when dealing with consumer problems, never knowingly withdraw services, thoroughly investigate why bills may not have been paid and have

¹²³ [Energy Consumers Commission 2020/2021 Work Plan \(www.gov.scot\)](https://www.gov.scot/publications/energy-consumers-commission-2020-2021-work-plan/pages/123.aspx)

¹²⁴ [BSI. Fair, flexible services for all \(bsigroup.com\)](https://www.bsigroup.com/Standards/BS-18477)

procedures to allow third parties to act on behalf of individuals.

- **Staff Training:** Trained in recognising signs of vulnerability, identify their needs and offer appropriate solutions, receive full training in Equality Act, Disability Act, Data Protection Act, and know what organisations may be able to provide assistance so they can tell consumers.
- **Fair Marketing:** Make sure information is clear, jargon free, and not misleading; Make sure that inappropriate services are not marketed to vulnerable consumers; take reasonable steps to ensure that all customers understand their rights to cancel contracts
- **Sales Activities:** Create a 'sales code of conduct' and regularly check that sales individual, whether employed directly or via a third party agent, are following the code
- **Contact Methods:** Offer several methods for consumers to contact the organisation; offer a free or low cost telephone number; have a well publicised procedure for dealing with complaints and target timescales for responding to them. Keep customers updated on progress of their enquiry or complaint and when it is expected to be resolved
- **Provision of information:** Make sure that bills, letters or other communications are available in a range of accessible formats and do their best to ensure that customers received information in their preferred format; test their products and serviced for accessibility and usability on end users.

Microbusinesses

5.14 Until now this report has been focussed on domestic consumers only. However, the Citizens Advice report, *Closing the Protection Gap*¹²⁵, identifies the non-domestic energy market is simply not working well enough for the smallest businesses. Microbusiness are particularly susceptible to debt problems which can result in disconnection. Recommendations by Citizens Advice in a *Good Practice Guide for Supporting Microbusinesses*¹²⁶ included:

- Identify debt early and act quickly;

¹²⁵ [Closing the protection gap - Citizens Advice](#)

¹²⁶ [Citizens Advice Microbusiness Good Practice Guide.pdf](#)

- Communicate effectively and offer support;
- Work collaboratively with specialist third parties;
- Offer affordable repayment plans;
- Take all available steps to make contact; and
- Avoid high fees associated with disconnection and reconnection

5.15 The British Business Bank undertook a representative sample of 1,200 small UK businesses to assess their transition to net zero¹²⁷. The findings showed that most small businesses are at an early stage in their transition to net zero, with 78% not fully understanding what “net zero” as a term means. Microbusinesses are still largely not engaged with decarbonisation and will need a framework that will protect them as they make the transition to net zero.

5.16 As with domestic energy consumers, providing positive outcomes for microbusiness also requires the correct approach from government bodies as well as a regulator. For instance, additional protection identified from the UK Government includes proposed “breathing space” from debt collection for sole trader with a turnover of less than £85,000 a year, providing 60 days to determine the best long term solution for their needs.¹²⁸

5.17 However, specific regulatory protections have been identified as something microbusinesses do not have which leaves them exposed to vulnerability. If a principles based approach, as proposed by BEIS, was to be adopted, just as highlighted with domestic consumers and the structure provided by organisations such as NAO, a regulator would be able to identify more specific activity required from suppliers to achieve these higher level objectives.

5.18 In 2020 Ofgem released a policy consultation to assess the potential measures to improve the microbusiness experience of the market. This included:

- Broker conduct principle: Introducing a principles-based requirement for suppliers to ensure brokers they work with conduct themselves appropriately
- Broker dispute resolution: Introducing a requirement for suppliers to only work with brokers signed up to an alternative dispute resolution

¹²⁷ [Small businesses and net zero - British Business Bank \(british-business-bank.co.uk\)](https://www.british-business-bank.co.uk)

¹²⁸ [Citizens Advice - Closing the protection gap.pdf](#)

scheme

- Informed contract choices: Applying targeted sales and marketing rules to suppliers and brokers they work with via supply licence changes
- Broker commission transparency: Clarifying and strengthening existing supply licence obligations to provide information about broker commission payments on contracts, bills and account statements
- Cooling-off period: Introducing a 14 day cooling-off period for microbusiness contracts
- Contract extensions: Requiring suppliers to maintain existing contract rates for up to 30 days while issues with a blocked switch are being resolved
- Banning notification requirements: Banning suppliers from requiring microbusinesses to provide notice of their intent to switch

5.19 It can be seen that one of the key areas of focus from Ofgem is on the role brokers. In the BEIS TPI CfE, microbusiness customers were identified as particularly susceptible to poor outcomes, including over-paying for energy supply, as a direct result of having low levels of their own engagement in the market. Citizens Advice identified TPIs as using aggressive tactics to misrepresent or mis-sell products that created contractual issues and problems for microbusinesses.

5.20 Specific principles identified between Ofgem and Citizens Advice have been identified as something that should be embedded into any future code or practice in relation to TPIs and how they interact with small business¹²⁹:

- Honesty: Being clear about what agreements the broker has with suppliers;
- Respect: If the consumer isn't interested, the broker stops contacting them;
- Accuracy: The number of suppliers compare is clear and the tariff are presented clearly;
- Transparency: Around terms, costs and commissions;

¹²⁹ [Ofgem TPI Factsheet May 2015 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications/factsheets/factsheet-129)

- Customer-focused: Complaints are handled properly;
- Professional: Staff are trained and follow the principles.

Microbusinesses will need to be considered as part of the potential future framework for protection during transition.

Industrial & Commercial Consumers

5.21 The USA Energy Protection Authority webpage¹³⁰ on different electricity customers provides an overview on the residential customers that have been mentioned. However, different forms of business as energy consumers that will also have protection consideration are also stated, that will have specific requirements for energy that may prevent them from being able to reduce or adapt their consumption patterns:

- Industrial: These are customers that use facilities and equipment which utilise electricity for processing, producing or assembling goods. Electricity use by Industrial consumers tends not to fluctuate through the day or year as it does in residential premises, particularly in manufacturing sectors that may work around during night hours.
- Commercial: This sector include public sector buildings and facilities, service industry and other private organisations. The overall biggest use of electricity in the commercial sector is lighting and heating, with demand tending to be highest during daytime business hours.

5.22 Ofgem has set out how business energy contracts differ from domestic¹³¹. They are usually longer, often lasting up to five years in length. If notice is not given to a supplier about a planned switch in a “switching window” period towards the end of a contract it can result in rolling over into an expensive default contract. The onus is therefore on business customers to understand and agree new contracts according to their contract end date and notice periods.

5.23 Business Energy contracts also:

- Do not normally contain the 14 day cooling off period that domestic consumers have.
- Can be agreed on a phone without receiving all terms in writing;

¹³⁰ [Electricity Customers | US EPA](#)

¹³¹ [Types of business energy contracts | Ofgem](#)

- Are usually single fuel.

Public and Voluntary/Community Sectors

- 5.24 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 and small 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.
- 5.25 The Voluntary and Community sector, which also provides vital services, may face its own particular challenges. Organisation 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.

Summary: Different consumer groups

All consumers:

The principles based approach to consumer protection and regulation identifies the baseline protections that all consumers will require. These include:

- 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

Vulnerable consumers:

A programme of work specifically in relation to vulnerable consumers is underway in the Utility Regulator. This includes the development of a Best Practice Framework which has identified not just principles, but measures

that industry can be evaluated against to assess performance in achieving those principles.

Research has shown that certain consumer groups were identified at particular risk of being excluded from vulnerability considerations, perhaps precisely as a direct result of their circumstances that makes them vulnerable. There perhaps may be long standing issues, particularly relating to trust, that requires a cultural shift amongst consumers as much as change is needed within industry to provide more proactive support.

In Scotland, an Energy Consumers Commission, has been set up to provide “a more powerful voice” to those consumers that face unique challenges. A Consumer Charter has also been generated to set guiding principles to support the collective effort that is needed in addressing consumer issues.

A Consumers Outcomes Fund has also been established to identify creative and innovative solutions to address long standing consumer issues. Although Action 4 in the Energy Strategy Action Plan relates to the development of green technology innovation, it could be beneficial to integrate vulnerable consumer considerations into the work of this action.

Domestic consumers:

A more inclusive approach for vulnerable consumers has been found across literature to reframe the perspective of suppliers and raise standards for all domestic consumers.

The British Standard 18477 is an example of how when service providers adopt an approach with vulnerable consumers in mind it can improve service level provision for all domestic consumers. This includes business areas such as:

- Policies and Planning – Including training; resourcing; review periods; responding to feedback and complaints
- Flexible Services – Empowered staff that can identify vulnerability and know how to provide assistance
- Fair Marketing – Clear, jargon-free information that is not misleading with all customers able to understand their right to cancel
- Sales Activities – Follow a code of conduct that third parties also adhere to
- Contact Methods – Offer several methods for consumers including a telephone number. Customers should be kept update on an enquiry or complaint progress and when it can be expected to be resolved
- Provision of Information – Bills, letters and other communications are available in a range of tested accessible formats and do best to ensure consumers received information in preferred format.

Microbusiness, Industrial & Commercial consumers:

Microbusinesses have been identified by Ofgem as lacking in specific protections.

Ofgem therefore proposed an approach to protecting microbusinesses including 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.

A voluntary code developed in relation to brokers or TPIs includes honesty, respect, accuracy, transparency, and customer-focussed professional approach.

Energy contracts for businesses can often 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 rollover default contracts.

Industrial and Commercial consumers also have specific times of day and requirements for their energy use, which prevents them from being able to reduce or adapt consumption.

Public Sector consumers:

Difficulty in obtaining or a reduction in access to energy within the public sector could result in the provision of skeleton services.

As the transition develops, the public sector estate will be at the forefront of making purchasing decisions to reduce its own energy usage.

Voluntary and Community sector consumers:

Voluntary and Community organisations may be unable to obtain and utilise energy in a cost-effective due to a lack of 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.

6. Mechanisms for Delivery

- 6.1 The NFI report on Strategic Investment and Public Confidence made a fundamental conclusion that there is an immediate requirement for updating the duties of regulators to support long-term investment involved in the transition.
- 6.2 The statutory duties of regulators is set out in legislation and provides the primary basis around which regulators base their decisions. This legislation is now reflective of past priorities and serves as a hindrance on setting prices and protecting vulnerable consumers, while also prioritising contemporary challenges such as climate change.
- 6.3 The benefits of the retail market may generally require rebalancing towards consumers, particularly for the lack of protection for vulnerable consumers. Future energy customers will be able to choose from services that best suit their needs, most likely including a choice between different pricing arrangements as well as bundling of energy products. However, in today's market companies may place reliance on consumer disengagement, charging more to those less likely to switch from higher tariffs.
- 6.4 The Ofgem's report into *Enabling the transition to electric vehicles*¹³² provides an example of the type of change required. If more complex tariff arrangements exist in the future, due to bundling of products, there is a risk of greater complication of offers that are even more difficult to compare for consumers. EV charging at home, as well as potential for different costs for different charging locations, may create new circumstances whereby consumers find themselves vulnerable. The legislative basis for regulation will need to enable an approach to regulation whereby it can evolve as necessary to keep pace with products and services on offer as well as consumer interests.
- 6.5 In the House of Lords Industry and Regulators Committee report into the Net Zero Transformation, it was outlined by a number of witnesses that Ofgem required a net zero target included explicitly "as a legally enshrined principle" within its statutory duties (Pg27)¹³³.
- 6.6 The reform of a regulators approach to a principles based model focussed on consumer outcomes and protections, is inextricable from the governmental strategic aim of achieving net zero. It is vital that the statutory remit of a regulator is updated to reflect contemporary challenges.

¹³² [Electric vehicles: Ofgem's priorities for a green fair future | Ofgem](#)

¹³³ [The net zero transformation: delivery, regulation and the consumer \(parliament.uk\)](#)

- 6.7 It was recommended that Ofgem's duties should be amended to include explicit reference to having due regard to the net zero target, although this alone will not provide sufficient guidance for making judgements on trade-offs. The urgency of a issuing a Strategy and Policy Statement that provides clarity to Ofgem on how trade-offs should be made between affordability, net zero, security of supply and the interests of current versus future generations in regulatory decisions.
- 6.8 The NAO report on *Principles of Effective Regulation* similarly found that a clear articulation of the primary purpose of regulation is crucial so it can be understood by all stakeholders. A shared understanding between government, regulators and stakeholders (including other consumer protection organisations) of how regulation is intended to achieve its aims is fundamental to demonstrating performance. Regulators require an updated set of duties to ensure stable and predictable regulation over the long term which meets consumer needs. Clear roles and responsibilities are crucial when instigating a change like the transition to net zero.
- 6.9 Section 2 in this report referred to how regulators will still need to find tangible performance standards to measure supplier performance against in a more principles based future. Providing clear guidance and direction to suppliers on how competing consumer priorities should be balanced is therefore crucial to suppliers in succeeding in achieving good consumer outcomes. In the same manner, government needs to provide clear guidance to regulators on what direction net zero will be taking and what approach should be taken on trade-offs that are political in nature.
- 6.10 The approach of consumer protection bodies will need to change to enable new innovative energy products and services to flourish. However not all consumers will have the desire and capability to engage with these new service delivery models. Clear strategic direction from Government will enable the regulator to maintain a balance between resilience and innovation so all consumers receive an appropriate level of protection no matter what service they are receiving.

7. Appendices

Appendix I: United Nations Guidelines for Consumer Protection - Principles for good business practice

- a) **Fair and equitable treatment** – Dealing honestly with consumer and avoiding practices of harm, particularly in relation to vulnerable and disadvantaged consumers.
- b) **Commercial behaviour** – Consumer protection is an objective. Businesses should avoid illegal, unethical, discriminatory or deceptive practice that may pose unnecessary risk or harm consumers.
- c) **Disclosure and transparency** – Businesses should provide easy to access, complete, accurate and non-misleading information regarding goods and services, terms, conditions, fees and costs so consumers can make informed decisions.
- d) **Education and awareness raising** – Business should develop programmes and mechanisms to assist consumers to develop knowledge and skills necessary to understand risks and access competent advice and assistance, preferably from an independent third party.
- e) **Protection of privacy** – Business should protect consumers' privacy through a combination of appropriate control, security and transparency and consent mechanisms relating to the collection and use of their data.
- f) **Consumer complaints and disputes** – Businesses should make available complaints handling mechanisms that provide consumers with expeditious, fair, transparent, inexpensive, accessible, speedy and effective dispute resolution without unnecessary burden. This should include considering subscription to international standards pertaining to internal complaints handling, alternative dispute resolution services and customer satisfaction codes.

Appendix II: Relative advantages and disadvantages of Goals based regulation and Rules based regulation

Factor	Goals-based regulation	Rules-based regulation
Flexibility	Seen as more flexible	Less flexible
Predictability and certainty	More imprecise, and potentially less certain	More precise and therefore potentially more certain
Promotion of innovation	Seen to encourage experimentation and alternative approaches to compliance	Limited incentives to innovate in compliance
Equality	Seen to promote <i>substantive</i> equality	Seen to promote <i>formal</i> equality
Impact on approach and mindset of regulatee	Requires regulatees to be forward-looking and think through consequences of actions	Can result in a tick-box mentality developing
Uniform or differential treatment of regulatees	Can allow for differential treatment of regulatees based on compliance history or other characteristics	Formally treats all regulatees the same
Ability to adapt to changes in environment/ market	More open-textured and therefore can be more adaptive to changes in the environment	Less adaptive to changes, rules can tend towards obsolescence, and require more rules to be introduced
Scope for exercise of regulatory discretion	Potentially significant scope for the exercise of regulatory discretion	Typically constrains the discretion of the regulator
Accountability	Devolves some responsibility to firms, and can create an accountability gap	Regulator is ultimately accountable for failures
Incentives for compliance	Can lead to over- or under-compliance depending on level of precision of regulation, and the risk profile of regulatee	Can create incentives to 'game the rules' and engage in creative compliance

Source: BEIS Research Paper Number 8 on Goals-Based and Rules-Based Approaches to Regulation

Appendix III: NAO Link between objectives, activities and measures

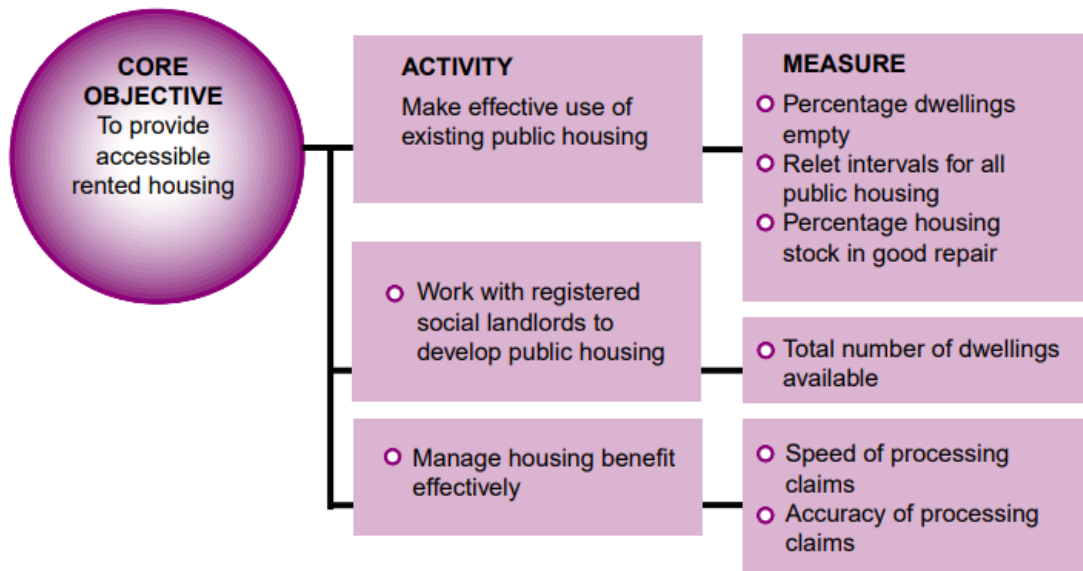


Diagram taken from Audit Commission's Paper: *Aiming to Improve* (Exhibit 3 page 10)

Appendix IV: NAO on good performance information

Figure 4

Some characteristics of good performance measures and information

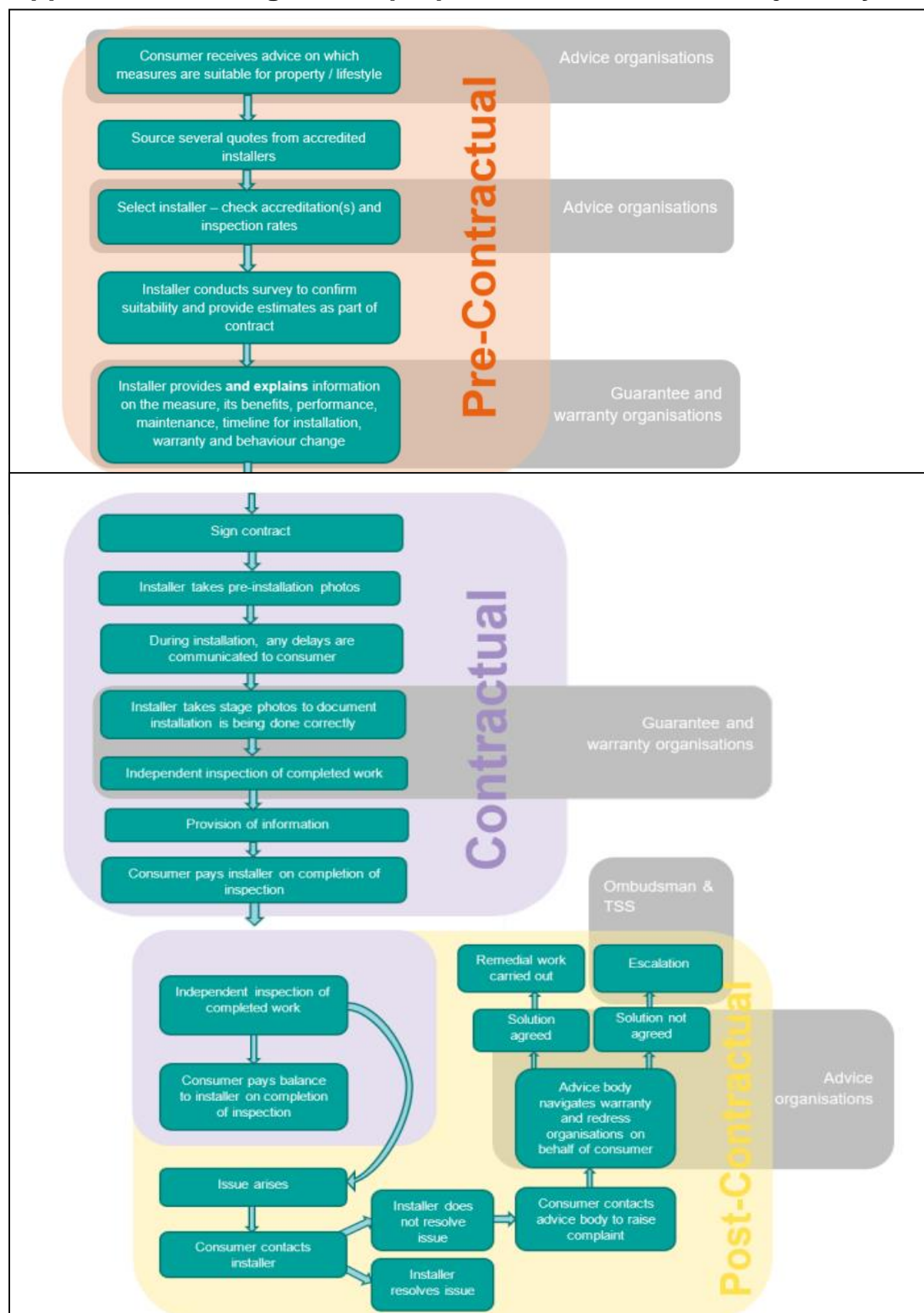
Measures	Relevant	to the purpose of the performance framework and to what the organisation is aiming to achieve.
	Able to avoid perverse incentives	and should not encourage unwanted or wasteful behaviour.
	Attributable	the activity measured must be capable of being influenced by actions which can be attributed to the organisation; and it should be clear where accountability lies.
	Well defined	with a clear, unambiguous definition so that data will be collected consistently, and the measure is easy to understand and use.
	Timely	producing data quickly and frequently enough for the intended purposes, and informing timely decision-making.
	Reliable	reflecting stable and consistent data collection processes across collection points and over time.
	Comparable	with either past periods or similar programmes elsewhere.
Information	Verifiable	with clear documentation behind it, so that the processes which produce the measure can be validated.
	Accurate	providing a fair picture of performance, with sufficient accuracy for the intended purpose.
	Valid	recorded and used in compliance with relevant requirements, including the correct application of any rules or definitions.
	Complete	with processes for monitoring for, and acting on, incomplete, missing or invalid data.

Sources: National Audit Office, Audit Commission

Appendix V: Scottish Government guiding principles to ensure alignment of heat in buildings and fuel poverty objectives

1. We are committed to ensuring that poor energy efficiency is removed as a driver of fuel poverty. As such, improving the fabric of buildings will be central to how we decarbonised heat.
2. We recognised that heat decarbonisation is essential to address the climate emergency, and that in decarbonising our homes we must not make fuel poverty worse. We commit to delivering measure to help those in fuel poverty to manage their running costs. As such, it is essential that, whenever possible, measures that both promote decarbonisation and lower fuel costs are supported.
3. We will assess our heat in buildings capital delivery programmes for those impact on those households experiencing fuel poverty – both at installation and throughout their lifespan. This assessment should be proportionate to the expected impacts.
4. Where an intervention can lower running costs, fuel poor consumers should be targeted for support as soon as possible, including support for the up-front installation costs of these measures. Factors affecting the ability of consumers experiencing fuel poverty to take up these measures should be considered as part of this process, as should the provision of advice and support to ensure that households in fuel poverty derive the maximum benefit from new measures.
5. We will develop mitigation measures to be deployed across our capital funding programmes where there are demonstrable cost increases on those in or at risk of fuel poverty. Success of these measures should be regularly assessed and, if appropriate, these measures should be adjusted to better meet the needs of these households.
6. In cases when zero emissions heat interventions are assessed as likely to increase energy costs even after mitigation measures are put in place, government supported measures should be focused on consumers who are not at risk of fuel poverty.
7. In some cases, wider change will be needed for decarbonisation measures to become suitable for those in fuel poverty, including areas that are reserved to the UK Government. We will continue to urge the UK Government to take necessary action in reserved areas and will use the research and practical experience gained through our decarbonisation schemes to support us in building appropriate evidence and pushing for systemic improvements.
8. Communications should be presented in formats accessible to a wide range of consumers, taking into account differing circumstance and accessibility needs.

Appendix VI: Changeworks proposed consumer retrofit journey



Appendix VII: BEIS Hydrogen Trial Consumer Protection Framework

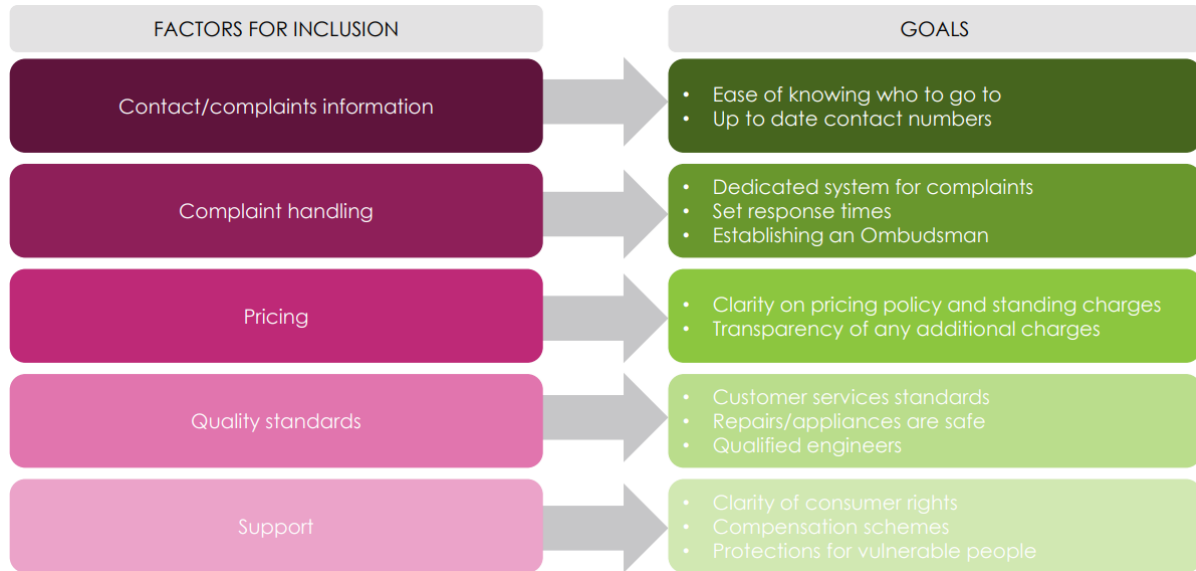
1. **Transparency:** Gas Distribution Networks (GDNs) are required to have a robust engagement strategy as part of their proposals to ensure that all consumers within the village trial area understand how the trial will affect them and are able to communicate their views. It will include providing comprehensives and accessible information and guidance about the trial and the options for participation, in order to enable consumers to make informed decision about whether they opt for hydrogen heating or an alternative heating option. Part of this information will also include how customers' data will be used and protected. Standard data protection legislation and principles will apply, with GDNs to inform consumers of any relevant rights.
2. **Appropriate oversight and redress:** Ofgem and HSE will provide regulatory oversight of the trial, as per their respective remits. BEIS, Ofgem and HSE are undertaking further work together to identify where other changes, for example to licence conditions, may be needed. The GDNs and their delivery partners' conduct will also be monitored through the agreements that will be put in place to fund the trial. Existing redress routes will continue to apply. Government is exploring if and how any additional arrangements could be implemented to ensure that consumers are able to receive independent advice and assistance on resolving any disputes that specifically arise in the context of a trial.
3. **Fair Treatment for All:** This is already covered in existing legislation, including the Consumer Rights Act 2015, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and in the gas licence conditions. As detailed plans for the trial are developed, BEIS and the GDNs may identify specific further measures to address support for consumers during the period between being disconnected from the natural gas supply and transferred to either hydrogen or the alternative. Other safeguards are also being considered and support mechanisms are required for vulnerable consumers and those experiencing fuel poverty, on top of existing protections. BEIS are working with the gas industry to ensure that consumers will continue to have choice in their energy supplier and that billing and payment is no more complicated than current arrangements.
4. **Financial Fair Treatment:** We intend that no consumer in the village trial area will be financially disadvantaged as a result of the gird conversion trial taking place, including with respect to the installation and maintenance of either hydrogen heating or an alternative solution. Consumers should not pay more to use hydrogen gad than they would for natural gas. Mechanisms on



how to best achieve these are being explored by BEIS with gas networks.

5. **Quality of Service:** All products provided by trials will be appropriately certified and installed to the appropriate standard. All work carried out will be conducted by appropriately qualified Gas Safe Registered engineers and to robust standards, such as those being developed by the Hydrogen Skills and Standards for Heat Programme. The principles of the quality of service in the Gas (Standards of Performance) Regulations 2005 will be adhered to for the trial. The GDN running the trial will need to ensure that there will be minimal disruption to all properties in the area.

Appendix VIII: Consumer Expectation of Regulation of Heat Networks



Source: Citizens Advice