



Utility Regulator's Consumer Protection Programme 2024-2029 consultation

THE CONSUMER COUNCIL RESPONSE

05 February 2024

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1. EXECUTIVE SUMMARY

Our reference: PD200103275

We welcome the opportunity to respond to the Utility Regulator (UR) on its draft Consumer Protection Programme 2024-2029 (CPP).

As Northern Ireland's consumer representative body, we share much common ground with UR through extensive statutory powers in consumer matters, energy, and water and sewerage. We are supportive of the CPP and the continued focus on tackling key areas for consumers and the commitment to focus on consumers who need help the most.

In this response we set out:

- The need for consumer protections to be enhanced, with new protections to keep pace with changing technology and a decarbonising energy market;
- Our support for the CPP, its duration and its three themes;
- Our commitment to work with UR in developing and delivering the CPP, and the structured project plans sitting under each CPP theme;
- The need to be more flexible and agile in regulatory responses to consumer issues;
- Areas where UR can continue to show leadership, particularly in the drive to net-zero;
- That the review of existing Codes of Practice should be prioritised; and
- Areas of focus for improved consumer protections.

We look forward to continued collaboration with UR, and in supporting the UR teams in achieving the ambition and outcomes of the CPP.

2. ABOUT US

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order (The Order) 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.

We are an insight-led evidence based organisation:

- Providing consumers with expert advice and confidential guidance.
- Engaging with government, regulators and consumer bodies to influence public policy.
- Empowering consumers with the information and tools to build confidence and knowledge.
- Investigating and resolving consumer complaints under statutory and non-statutory functions.
- Undertaking best practice research to identify and quantify emerging risks to consumers.
- Campaigning for market reform as an advocate for consumer choice and protection.

We use a set of eight guiding principles (Figure 1) developed by the United Nations to assess where the consumer interest lies, and in developing and communicating our policies, interventions and support.

These provide an agreed framework through which we approach regulatory and policy work.

Figure 1: Consumer Principles



The principles ensure we apply a consistent approach across our statutory and non-statutory functions, and in all our engagement with consumers and stakeholders.

3. CONSUMER CONTEXT

It is important that the CPP provides increased consumer protections in a period that follows considerable market volatility, energy price rises and security of supply concerns, coupled with unprecedented cost of living increases. Forecasts do not show these stresses reducing significantly with many pressures on consumers remaining acute. As UR summarises in the consultation households are spending more, and more households are struggling to pay for their energy.

Our recent research found that:

- the discretionary income of our lowest earning households is less than £27 per week, with 54% of this income spent on food, rent, utilities and transport; and our average weekly discretionary household income is 54% lower than the UK average¹;
- 97% of consumers were concerned about home energy prices, with 55% stating that they were very concerned. Both have risen since July 2023, returning to levels previously seen during the height of the energy price crisis in November 2022²; and
- half of households cannot afford to heat their homes or are spending more than the fuel poverty threshold of 10% of net household income on energy³.

Alongside these significant affordability concerns other indicators show that, on average consumers in Northern Ireland are in more vulnerable circumstances than the UK average. For example, Northern Ireland has higher rates of consumer vulnerability⁴ and reliance on social security income⁵; almost double the number of Disability and Carer's benefits claimants⁶; and higher rates of adults having no savings and twice as reliant on cash to pay for 'everything' or 'most things'⁷.

These factors, and the emerging vulnerability challenges resulting from the energy price crisis highlight the need for consumer protections to be enhanced is greater than ever, along with new protections to keep pace with changing technology and a decarbonising energy market.

As Northern Ireland's consumer representative body, we share much common ground with UR through extensive statutory powers in consumer matters, energy, and water and sewerage. As you consider how to improve consumer protections in our energy and water sectors, we look forward to working with the UR on the delivery of the CPP, both through direct engagement and our chairing of the

¹ [Consumer Council Northern Ireland Household Expenditure Tracker: Q2 2023](#)

² [Consumer Pulse Survey: September 2023](#)

³ [The impact of the energy crisis on affordability and the impact of energy transition on consumers | Consumer Council](#)

⁴ Financial Conduct Authority (FCA), Financial Lives May 2022 survey: selected results by nation of the UK, July 2023

⁵ Consumer Council, Northern Ireland Household Expenditure Tracker

⁶ Disability & Carer's Benefits consist of: Personal Independence Payment, Disability Living Allowance, Carer's Allowance and Attendance Allowance. These percentages are based on the ONS UK population mid-year estimate of 67,026,300 (released: 21 December 2022) and the ONS NI population mid-year estimate of 1,904,600 (released: 21 December 2022), NI: NISRA and Department for Communities, Northern Ireland Benefits Statistics Summary, February 2023, UK: Department for Work and Pensions, DWP benefits statistics, August 2023

⁷ Financial Conduct Authority (FCA), Financial Lives May 2022 survey: selected results by nation of the UK, July 2023

Consumer Protection Advisory Group (CPAG) and supporting the UR in achieving consumer-centric outcomes.

We have noted in this response the significant areas of overlap between the UR's welcome and ambitious plans, and our own activities underpinned by our statutory powers relating to energy and water consumers. Given the convergence in the objectives of our two organisations we would welcome further discussion regarding the opportunities for alignment of our work to best serve the interests of consumers.

4. RESPONSE TO CONSULTATION QUESTIONS

1. Do you agree with the three themes that have been identified for CPP 2024-2029?

The Consumer Council supports the three themes.

We welcome the strategic alignment of the CPP with the UR's Corporate Strategy. We have responded to the Corporate Strategy consultation separately.

We appreciate that the structured plan explaining the detail of the projects proposed under each theme, how they will be delivered, and the consumer outcomes to be attained is still to be developed. This detailed level planning will be required to ensure that projects tackle the areas of most significant consumer concern, detriment or risk of harm. We would encourage UR to continue in its openness when developing individual projects.

We are pleased to see the inclusion of non-domestic consumers in the CPP, particularly microbusinesses who make up c. 89% of Northern Ireland's business population⁸, as many engage with the energy and water markets in similar ways to domestic consumers.

2. Do you agree that a 5-year CPP with a mid-term review after 3 years is a suitable duration and approach?

We agree that the CPP approach should be set out for five years, with a structured plan to be developed for years one to three. We would encourage UR to set ambitious consumer protection outcomes to match the duration of the CPP.

We support a mid-term review as an opportunity to allow for any required recalibration of the programme and help ensure it is tackling the correct issues facing consumers.

The recent past has demonstrated that any structured multi-year plan will must have in-built flexibility to react quickly to external events.

⁸ [Northern Ireland business activity, size, location and ownership: Department for the Economy, 2023](#)

UR explains that a finalised CPP will be published before work commences on 1 April 2024. It would be helpful for UR to include a timeline for development of the structured plan for years one to three under each theme. Given its significance in delivering consumer protections we are particularly interested in the timetable for full implementation of the Best Practice Framework Code of Practice.

3. In relation to ‘Theme 1: Research and Leadership’:

- a. Do you agree with the proposed areas of work and projects identified under this theme? Please provide any additional information to support your view, including any additional areas or projects that you feel should be of focus.**
- b. Are there any projects that require prioritising within years one to three of the CPP? Please provide your rationale as to why.**

We support the theme and the research proposals set out. As UR is aware, we conduct an extensive range of consumer research each year as required under our statutory obligation of “acquisition and review of information” regarding consumers contained within the Energy Order (Northern Ireland) 2003 [the Energy Order], and the Water and Sewerage Services (Northern Ireland) Order 2006 [the Water Order].

It is therefore important that the UR’s research is undertaken in a complementary manner to improve our collective evidence base. Our research in recent years has provided valuable evidence to help shape our thinking around consumer protection. For example:

- We conducted two significant research projects exploring consumer attitudes to the energy transition⁹, and as part of the 2023 Energy Strategy Action Plan led by the Department for the Economy (DfE), the consumer attitudes to protection during energy decarbonisation in Northern Ireland¹⁰. These highlighted:
- Consumers believe protection and accessible redress as non-negotiables and relating to fossil fuel and low carbon energy sources, and emerging/new technologies.
- They expect protection should also cover safety, fraud, obsolescence, mis-selling, damage and disruption during installation, and guarantees and price caps for future technology and equipment.
- Consumers need information and education about what is required from them, what options they have and support with choosing what is right for them.
- To do this, they want trusted, accessible sources of information so they can make informed choices, alongside long-term protection for when things go wrong.

⁹ [Attitudes to the Energy Transition: Consumer Council, Spring 2023](#)

¹⁰ [Consumer Attitudes to Protection during Energy Decarbonisation in Northern Ireland: Consumer Council, Autumn 2023](#)

- They also want to see inclusive standards, policies and practices that set out how the energy system and its suppliers will interact with them, including certification and registration of installers.
- Cost is the most significant barrier to the behavioural changes required from consumers and the appropriate incentives and financial support are needed, with tariffs meeting both need and affordability.

Our research into the impact of the energy crisis on affordability and the energy transition¹¹ also highlights increasing numbers of households at risk of fuel poverty and high levels of concern about energy costs. Energy affordability has therefore never been more important as consumers face twin challenges of high energy costs and an acute cost of living crisis.

We would welcome the ongoing opportunity throughout the CPP to continue to work with UR on consumer research projects.

As laid out the draft CPP contains less information on the leadership work UR will undertake under this theme. Our research shows that consumers want positive leadership, particularly in the drive to net-zero. As the detailed CPP programme is developed it will be important that UR sets out how it will continue to show leadership in this area, alongside its role working in partnership with other organisations across the utilities sectors.

The UR can demonstrate leadership by:

- 1) Enhancing the focus on consumer vulnerability across all aspects of the UR's work. Decisions made regarding the regulation of transmission and distribution networks can have long lasting impacts on consumer vulnerability outputs that are not always immediately apparent when considered through the lens of economic efficiency.
- 2) Taking a proactive approach to addressing consumer challenges. This can build on the UR's recent good practice in providing prompt solutions to address immediate consumer detriment, such as the Energy Charter.
- 3) Fostering a transparent and collaborative approach to stakeholder engagement across all UR activities. The facilitation of co-design and encouraging industry-wide solutions to consumer vulnerability and net zero challenges is essential. In doing so the UR should recognise the limited resources of many key sectoral partners and support their input accordingly.

4. In relation to 'Theme 2: Enablement':

- a. Do you agree with the proposed areas of work and projects identified under this theme? Please provide any additional information to support your view, including any additional areas or projects that you feel should be of focus.**

¹¹ [Impact of the Energy Crisis on Affordability and impact of Energy Transition on Consumers: Consumer Council, Summer 2023](#)

- b. Are there any projects that require prioritising within years one to three of the CPP? Please provide your rationale as to why.**

We support the theme and the projects identified. It is essential that UR work in this area complements and is undertaken in a collaborative manner with existing Consumer Council education, enablement and empowerment activities that are underpinned by our statutory obligations including the requirement to provide information to consumers contained within the Energy Order and the Water Order.

These obligations and activities have provided us with considerable experience in developing consumer friendly information and guides across our wide-ranging remit. Therefore, we would welcome the opportunity for early engagement with UR on this project to ensure the messages consumers receive are clear, consistent and there is no duplication of effort or in the use of public funds.

5. In relation to ‘Theme 3: Protection’:

- a. Do you agree with the proposed areas of work and projects identified under this theme? Please provide any additional information to support your view, including any additional areas or projects that you feel should be of focus.**
- b. Are there any projects that require prioritising within years one to three of the CPP? Please provide your rationale as to why.**

We support the projects outlined and the split between price and non-price protection.

Given the additional consumer need and detriment that has become apparent during the energy price crisis and that will extend into the energy transition, we are mindful of the importance of ensuring our general powers “to promote and safeguard the interests of consumers in Northern Ireland” (General Consumer Council (Northern Ireland) Order 1984), and specific complaints powers contained within the Energy Order and Water Order are used to complement the deeper powers of the UR in the protection of utilities consumers.

The review of existing Codes of Practice should be prioritised.

In early discussions with UR on the development of a new CPP we provided areas for improved protection where we thought attention should be focused. Some aspects are already included, for example fuel poverty work, and debt and disconnection. We provide these again to help UR when considering the detailed development of projects.

- **A project to engender consumer trust in the regulated industry sector** – one of the consequences of the energy price rises was a fall in trust in the energy sector. Our most recent supplier satisfaction survey¹² found a range of between 45% to 80% of consumers satisfied with their electricity supplier. Key concerns included price rises and difficulties

¹² <https://www.consumercouncil.org.uk/about-us/governance/corporate-documents/annual-complaints-and-communication-report-2022-2023>

contacting suppliers. Consumer trust will be crucial in delivering net-zero. While each CPP project should contribute to rebuilding consumer trust in the energy sector, a joint collaborative and strategic project should also be considered by the UR and the Consumer Council and involve wider industry stakeholders.

- **Develop mandatory regulatory consumer impact assessments and accompanying applicability criteria** – this could take the form of an equality impact assessment for any new policy or procedural changes that may materially impact consumers. We suggest the CPP considers incorporating an impact assessment into the programme for further development.
- **Credit run procedures** – we welcome the enhanced protections planned for bereaved consumers around returning credit and closing accounts. We would additionally recommend a review of energy suppliers’ credit return procedures for all consumers. Whilst not extensive, our consumer protection team has had cases of delays obtaining credit or ‘cashing out’. This should also include steps to prevent direct debits being increased when a consumer is in credit.
- **Facilitate a review of options for energy social tariffs and direct financial support** – The Department for the Economy is currently carrying out a workstream on tariff reform which could encompass analysis of a potential for social tariffs. Targeted financial support for the lowest income consumers will assist those struggling most¹³. A range of initiatives have been delivered in Northern Ireland from small, local based pilot schemes to universal larger payments.

UR could demonstrate leadership through directing/facilitating further review work on tariffs.

Considerations of affordability support should also include means to encourage ongoing industry support for a single Northern Ireland-wide energy hardship fund with specific qualifying criteria similar in nature to the hardship fund established by the Consumer Council and Bryson Group with support from the UR, the Department for Communities and the energy sector.

- **Introduce payment reviews by companies to ensure consumers are on the most appropriate tariff and payment method** – these should be conducted automatically intra-company annually, and inter-company when switching.
- **Review pay-as-you-go (PAYG) self-disconnection protections and emergency credit levels** – our 2022 research showed pre-payment meter (PPM) consumers like the budgeting flexibility of PAYG. This research showed 14% of consumers had run out of credit on their PPM, and 21% of electricity PPM users had used the emergency credit facility. While these are relatively low ratios, they pre-date the recent substantial energy cost increases, and provide a worrying insight into the deep energy affordability concerns of households. Evidence in GB shows that with smart meters, suppliers potentially identify vulnerable consumers disconnecting and flag them for further

¹³ <https://www.smf.co.uk/wp-content/uploads/2023/03/Fairer-warmer-cheaper-March-2023.pdf>

- assistance¹⁴. We would recommend an assessment of PAYG disconnection rates and an accompanying review of emergency credit rates to evaluate their appropriateness compared to current energy unit prices.
- **Develop industry guidance to facilitate co-design of consumer facing policies and procedures** – understanding consumers’ lived-experience, needs and expectations will be essential to improving consumer protections. UR could set out guidelines for expected levels of co-design for certain types of consumer policies and procedures, and consumer facing information.
- **Monitor implementation of BPF CoP** – following the thorough consultation process it would be beneficial for stakeholders to monitor progress of the CoP. The CPAG would be a useful vehicle for stakeholder engagement, but we would also recommend further consumer engagement¹⁴ at various periods throughout the BPF programme.
- **Technology, digitalisation and Artificial Intelligence (AI)** – a suite of projects to help keep pace with the expected rate of technological advances over the CPP period:
 - a. Develop ‘no one to be left behind’ policies, which consider web design and web-based services;
 - b. Review regulatory requirements for online billing information to aid consumer understanding;
 - c. Develop regulatory checking processes to test and future proof protections particularly given the fast pace of development and adoption of AI; and
 - d. Review consumer permissions for use and control of data – particularly as part of the BPF CoP project on data sharing.
- **Regulatory agility** – the CPP notes the need for UR to be sufficiently agile. A review of current regulatory procedures, and where these can be relaxed and/or accelerated, would help facilitate speedier development and implementation of consumer protections in response to emerging consumer vulnerabilities and risks.

6. Do you agree that where this document has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for utility consumers?

We agree that foreseeable impacts will be positive¹⁵.

Additional consideration of equality impacts will be needed as detailed structured project development work is undertaken by UR. This will provide the required confidence in the certainty of these impacts, and their degree. As proposed above we believe a consumer impact assessment will help provide confidence in these impacts.

¹⁴ <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/PPM%20self-disconnection%20short%20report.pdf> ; https://www.ofgem.gov.uk/sites/default/files/docs/2020/10/self-disconnection_and_self-rationing_final_impact_assessment.pdf

¹⁵ Paragraph 3.2 of the consultation suggests that a previous consultation requested views on equality impacts. It is not clear which previous consultation is being referred to.

7. Do you consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

As CPP projects are designed for delivery, equality considerations will be required to be updated and refined for each project.

8. In relation to developing and implementing CPP 2024-2029, is there anything else not covered by questions 1-7 that UR should consider.

We are supportive of the CPP and its aims. The cooperation between UR, industry and consumer groups that led to the Energy Charter provides hope that similar routes can be followed to create improved consumer protections over the course of the CPP.

We look forward to seeing the UR's structured plan and working with UR in shaping and delivering this and the wider CPP for the benefit of consumers.

5. CONTACT INFORMATION

To discuss our response in more detail please contact:

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The Consumer Council consents to this response being published.

