



The Consumer Council

Response to the Utility Regulator's
Consultation on

“The Social Action Plan, 2009-14”

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Appendix 1 - The Ofgem Social Action Plan Performance Indicators

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1.0 Introduction

The General Consumer Council (the Consumer Council) was set up in 1985 to promote and safeguard the interests of all consumers in Northern Ireland. It has certain specific statutory responsibilities for energy (including natural gas, electricity and coal), passenger transport and food, and from April 2007 became the consumer representative body for water and sewerage services. The Consumer Council welcomes this opportunity to respond to the Utility Regulator's (the Regulator), consultation on its 'Social Action Plan' (SAP).

2.0 Executive Summary

Social policy, including policies tackling fuel and water poverty, is an issue for Government and must be shaped and directed at that level with all stakeholders feeding into the development of such policies. The Regulator has put the theme of Fuel Poverty and Social Action Plan in its forward work plan for 2008-09 with the view to incorporating it into the longer- term three year strategy. The Consumer Council would very much like to see this becoming a permanent strategic theme, reflecting the decisions made by Government.

It is essential that the SAP is derived from social policy, is strategic in its approach, provides clear direction, incorporates social tariffs and that its proposals are enacted. It is essential that the SAP is informed by consumers, the Consumer Council, the Regulator and other stakeholders.

The Social Action Plan can be inspirational and a driver for change that encourages utility companies to strive to better protect vulnerable consumers and those experiencing fuel poverty or at risk of water poverty. The Social Action Plan must set clear targets for companies to achieve, and provide a framework for the Regulator so that real change

can be delivered. In this respect it must evaluate existing measures and set out challenges for the future.

The Regulator can only act within its legal powers and it is not within the remit of the Utility Regulator to develop policy or deliver all of the proposals discussed in the consultation. However, it would have been helpful for the consultation to identify how the Regulator, as the co-ordinator of the SAP expects others to deliver the outputs, and how it can help them to do so.

Key recommendations:

- Establish a group of key organisations that represent vulnerable customers to regularly review the performance of the SAP;
- Develop a timetable and Key Performance Indicators ;
- Review the licence conditions to ensure they adequately provide for the needs of vulnerable persons;
- Take steps to ensure that SAP initiatives are known to the people they aim to help;
- Undertake research into schemes operating in other countries;
- Early and meaningful engagement with stakeholders prior to development of the consultation document on social tariffs.

3.0 Background

The Consumer Council has a statutory responsibility to represent vulnerable consumers and has placed a high importance on the SAP since it's inception in 1998 and on the integral role of social tariffs to tackle fuel poverty.

We recognise that social tariffs are to be the subject of a separate consultation due this year. However, we believe that the Consumer Council and other key parties should be involved in the development of

the Regulator's consultation document and that the SAP cannot be fully developed in isolation of social tariffs. Social tariffs are potentially an important tool with which to tackle fuel poverty. The Consumer Council is strongly of the opinion that social tariffs must not be solely funded by other consumers but that energy companies must make a valid and significant contribution.

We have long been calling for the SAP to be reviewed and strengthened. In January 2007 when the Regulator proposed reviewing the SAP it was agreed that as a first step research would be jointly commissioned with the Consumer Council into consumer awareness of the SAP. The research was carried out by Ipsos Mori and was published in December 2008. Its findings provide valuable data to inform the current consultation on the review of the SAP¹.

In preparing this consultation response, the Consumer Council met with key social partners. Whilst the document is the view of the Consumer Council it does take into account and reflect views expressed during the meeting. The key points emerging from our meeting with Social partners are :

- There are key community and voluntary organisations that are missing from the list of consultees;
- Community organisations are unclear about what the Regulator does and what powers they have in particular in relation to social policy issues;
- It is ultimately the Government that is responsible for tackling fuel poverty and potentially water poverty;
- Monitoring of the Social Action Plan is essential;
- Vulnerable customers who cannot avail of a discounted payment method should not be financially penalised. All options should be explored.

¹ Research into consumers' views on initiatives by energy suppliers to help disadvantaged and vulnerable customers. The Consumer Council and The Utility Regulator, December 2008

A key recommendation from the Social partners meeting is for:

- The Regulator to meet with key social partners to explain its role in social policy issues with a view to setting up a regular forum.

In structuring our response we are making our comments under three strands- Customer and Critical Care Schemes; Fuel and Water Poverty, and; overarching issues that are relevant to both of the first two strands.

4.0 Over arching issues

4.1 Equality of opportunity

Equality of opportunity must be at the heart of this consultation. The success of the SAP will be judged by its ability to promote and co-ordinate action by the utility companies to ensure that all customers, regardless of their personal circumstances, are able to access and benefit from the service they provide at a price they can afford.

In Section 2, reference is made to Section 75 of the Northern Ireland Act 1998 and the promotion of equality of opportunity for certain named groups. However, the list of consultees in Appendix 6 has only one organisation that specifically represents persons who are named in the Act. This is a serious omission. In order to ensure that the needs of the people who the Social Action Plan aims to help are understood the Regulator must immediately take the initiative in seeking out and engaging with representative groups.

The Consumer Council recommends that the Regulator meets on a regular and ongoing basis with representatives of Section 75 groups. This will help to validate the SAP as well as provide an opportunity for continuous development.

An Equality Impact Assessment is an important element of any potential policy change and we seek clarification on when this will take place.

4.2 Defining vulnerability

A definition of vulnerability was developed by the Northern Ireland electricity Supplier Interface Group (SIG) in 2007. This reads:

“A customer may be vulnerable if for reasons of age, health, disability, ethnic background, severe financial insecurity or rural location they are unable to safeguard their personal welfare or the personal welfare of other members of their household.

Suppliers recognise the predisposition of these groups to vulnerability and will pay due regard to the needs of those deemed to be vulnerable through their companies code of practice”.

This is a useful starting point. However, the Consumer Council recognise that the SIG definition was developed from the industry side and this work on the SAP presents the correct opportunity to work with representative groups to review this definition.

The characteristics and intensifiers raised in the consultation cover the groups in the SIG definition. However, the Consumer Council is unconvinced that creating a split between characteristics and intensifiers is helpful. For example why is ‘disability’ a characteristic and ‘age’ an intensifier and what difference will this make in the practical application of the SAP?

We agree that it is a weakness of the current definitions of fuel and water poverty that they do not reflect on the well being of the household. However, for the purpose of the Social Action Plan the term

vulnerable must include all those within the current definitions of fuel and water poverty. Further work on this could be undertaken by the Regulator as part of its SAP work programme. Such work should include the health sector and Section 75 groups.

4.3 Raising awareness

The key finding from the research jointly commissioned by the Regulator and the Consumer Council is that overall awareness and take-up of SAP schemes is low.

In order to raise awareness it will be necessary for both the Regulator and the Consumer Council to work with utility suppliers to develop strategies to ensure that information is targeted at the relevant customer groups in an appropriate way. Each supplier will need to develop a distribution strategy and information capturing system for its critical and priority care schemes. Those organisations that represent the groups who the services aim to help would be valuable partners to assist with this work.

4.4 Codes of Practice

The Regulator in conjunction with the Consumer Council should review the suppliers Codes of Practice that relate to Customer Care Schemes and dealing with debt. We are pleased to see that the Regulator plans to investigate how it can encourage all companies to operate an agreed best practice standard for debt recovery. However, rather than just encourage we believe that this should become a licence condition with the Consumer Council having a significant role.

Careful consideration needs to be given in identifying what is best practice. We recommend also working with established organisations such as CAB and Advice NI.

4.5 Monitoring

Monitoring is key to the success of initiatives by suppliers. In the past Ofgem have published information on 12 energy performance indicators that they have used to monitor developments in the energy industry and upon which the success of its social action plan has been judged. The performance indicators are of particular interest to the Consumer Council because in Northern Ireland this type of information is currently held individually by suppliers and other organisations but is not collated by a central source.

The Consumer Council recommends that the Ofgem suite of performance indicators is used as a starting point to develop performance indicators that are relevant for Northern Ireland focusing on our particular needs and circumstances. The Ofgem indicators were developed for the regulated electricity and gas industries in GB. They would need to be developed in a way that is relevant for water in the Northern Ireland context. The indicators that Ofgem has published are included at appendix 1.

The Consumer Council also support the creation of a review group. The review group should include organisations that represent the persons that the SAP aims to help. This was a key recommendation that emerged from our meeting with social partners.

4.6 Enforcement

It would be preferable that the SAP initiatives are adopted by utility companies in a voluntary capacity as this provides a show of commitment and would also be less onerous on the companies. However, if there are difficulties in achieving this commitment the SAP initiatives should be enforceable through the suppliers licence conditions.

In this event, the Licences should be reviewed and if necessary amended to ensure that they adequately provide for the needs of vulnerable customers. The licence conditions must provide the ‘teeth’ that is required to ensure the delivery of schemes within the SAP. Licence conditions relating to vulnerable persons should be harmonised across all utilities as long as it is practical and appropriate to do so.

4.7 Funding

Where initiatives under the SAP have a cost to them the decision needs to be made as to who will pay for these measures. All options should be explored and considered and this needs to be in the form of a transparent and public debate.

A key finding of the research jointly undertaken by the Consumer Council and the Regulator is that consumers regard the government and energy suppliers as primarily responsible for paying for help for vulnerable energy customers. The view we received from social partners on this is that government is responsible for providing help although it could be delivered through non-governmental organisations.

It is the Consumer Council view that whilst it is important to have agreement on who will pay for schemes under the SAP, it is the role of government to decide. However, the Regulator has a role to play in providing data, technical advice and advising on the feasibility and cost implications of different options.

It is a key point for the Consumer Council that the funding of schemes must be transparent. Our experience when working with consumers on the Energy Efficiency Levy was that consumers are unaware that they pay for energy efficiency measures that come within the SAP.

4.8 Home heating oil

Any initiatives to reduce fuel poverty cannot ignore the fact that 70 per cent of consumers in Northern Ireland use oil to heat their homes. Between June 2007 and October 2008 the price of home heating oil rose by 87per cent². Whilst this price has now reduced considerably customers remain exposed to the volatility of the price of oil. It is now appropriate to consider how the oil industry can contribute to tackling fuel poverty.

5.0 Fuel and Water Poverty

The Consumer Council is pleased that the consultation recognises the level and impact of fuel poverty and the potential impact of water poverty in Northern Ireland.

In 2006, the number of people in fuel poverty here was double that in Great Britain, and three times that in England. Since then consumers have seen unprecedented increases in their energy bills without commensurate increases in income. The Consumer Council believes that fuel poverty is more likely to be around 40 to 45 per cent of households now having to spend more than 10 per cent of their income on keeping their homes warm.

The SAP alone cannot tackle fuel poverty but can make a significant contribution by promoting energy efficiency, maximising household income and keeping fuel prices down. As is clear from the consultation, it is not within the Regulators remit to deliver all measures aimed at tackling fuel and water poverty that are contained within the paper. However, it would be useful for the SAP to identify the role of other

² Home Energy Conservation Report 2008

organisations and Government Departments that must contribute to the battle against fuel and water poverty.

5.1 Energy and water efficiency

Energy efficiency measures should remain at the centre of SAP measures as improving it has an immediate and lasting impact on fuel poverty. The Consumer Council has responded to the Regulator's consultation on the Energy Efficiency Levy (EEL) and one of the key points we raised was the lack of awareness amongst consumers that customer's money funds the scheme. We look forward to the release of the result of the review of the EEL.

To prepare consumers for the potential introduction of direct water charging and to promote sustainability the Regulator needs to promote water efficiency whilst at the same time reducing leakage levels. Targets need to be monitored and reviewed.

5.2 Payment methods

Whilst it is helpful for utility customers to have different methods of payment available not all customers want to or can use certain payment methods. Some customers do not want to be pushed into paying by direct debit because they do not want to provide the company with access to their bank account; and others can't afford to pay by direct debit, debit card or credit card because of fears of getting into debt or an unauthorised overdraft or they do not have access to those services, (16 per cent of households in Northern Ireland do not have a current account³). They will therefore be unable to take advantage of the discount that applies to direct debit payments. We believe that that these consumers who are unable to use direct debit should be offered alternative discounted payment schemes.

³ Family Resources Survey 2006-07

The Consumer Council strongly advise against the use of credit cards to pay utility bills as there is a danger of spiralling debt. We have an agreement with NI Water not to publicise credit cards as an accepted payment method and it has agreed not to pro-actively seek credit card payments. Similar agreements should be in place with all the utility companies.

5.3 Pre Payment Customers and debt

The Consumer Council have identified that Pay as You Go meters can offer consumers better financial control and management of their energy consumption and can help prevent debt building up. In 2006 the Consumer Council made a number of recommendations in relation to debt and PAYG meters and asked Ofreg to consider how these recommendations could be incorporated into a Social Action Plan. The recommendations remain relevant today and this would be an appropriate time to incorporate them into the SAP. These recommendations are contained in the report 'In Control'⁴, which is included as appendix 2 to this response.

The Consumer Council recognises that the 2.5 per cent discount that NIE Energy consumers currently receive is a benefit to consumers which we want to see continue. Any new entrant supplier to the Northern Ireland domestic electricity market would be competing on price. As there is such a widespread use of PAYG meters in Northern Ireland any new entrant would probably want to compete for PAYG customers. The need to be competitive should provide sufficient reason for the new supplier to at least match any existing discount.

However, in case this does not prove to be the case it may be necessary to keep as an option the power to oblige any new entrant to

⁴ In Control- An investigation into the pattern of use and level of self-disconnection by gas and electricity Pay as You Go meter users in Northern Ireland. March 2006

provide the same discount as is currently offered by NIEE on PAYG meters.

5.4 Regulation

The various regulatory tools that the Regulator describes in the consultation document play an important part in keeping energy prices down and it is important that its processes are robust.

It is also important for regulation to be innovative and flexible to ensure the highest level of consumer protection. For example, following the 33.3 per cent electricity price increase in 2008, an independent report, by Douglas McIlldoon, into the electricity industry made a number of recommendations on reform of the industry that could benefit consumers. The Utility Regulator must consider how with other key players such as the Department of Enterprise Trade and Investment these recommendations can be taken forward.

The Single Electricity Market, the mutualisation model and extension of the gas network are long term strategic projects that have cost implications for all business and domestic customers in Northern Ireland. Prior to such projects commencing a full cost benefit analysis should be undertaken. The Consumer Council has on a number of occasions expressed the view that whilst we see the potential benefits of competition in the energy market, it should not be introduced at any cost to the consumer.

5.5 A holistic approach

We agree that a holistic approach is needed to tackling fuel and water poverty. A package of measures covering energy efficiency advice, energy efficiency measures, debt counselling, income maximisation and financial assistance should all be available to eligible households.

The SAP should also identify where other schemes are providing similar services and ensure that they work together to maximise the efficient use of scarce resources and avoid unnecessary duplication. An example of this is the energy efficiency measures available through the Warm Home Scheme which should complement schemes funded by the EEL.

5.6 Targeting

The consultation rightly highlights the need to target the fuel poor in order to provide the most effective use of limited resources. The Westminster Government has issued proposals to amend the Data Protection Act to allow suppliers to provide data to assist with this. The Regulator along with the Consumer Council should keep a watching brief to extrapolate the benefits for Northern Ireland and to ensure the suppliers do not abuse any such provisions.

5.7 New initiatives

We recognise that existing schemes, such as free energy efficiency and benefit checks are delivering real outcomes to vulnerable households in Northern Ireland. However, with the extremely high levels of fuel poverty and potential for high levels of water poverty it is time that new initiatives are looked at. All the schemes noted in section 7 of the consultation have their merits and should be explored further.

It will be helpful to look at how other countries approach the issue of fuel poverty. In the USA there are a number of federal and state based energy assistance schemes which could be looked at to see whether the model could work for Northern Ireland. The well established LIHEAP scheme which uses public, private and charitable funding to provide financial assistance to help low income households pay their energy bills, is one example.

6.0 Special Services (Critical Care and Customer Care Schemes)

The Regulator should review the current critical care provisions to ensure that they represent current best practice. In particular, we would like to see further detail, particularly within the forward work plan, on how the Regulator will move forward the issue of the provision of information in languages other than English. In this review process it will be important to work closely with S75 representative organisations.

The joint research by the Consumer Council and the Regulator shows a real lack of awareness of the availability of these schemes. It is important that the promotion and uptake of these schemes are monitored in order to ensure that consumers are aware of the services on offer and also to identify customer groups that are not aware of the services.

7.0 The forward work plan.

The forward work programme contained in the consultation for the SAP is high level and includes projects that are not specifically directed at vulnerable customers and are covered in the Regulator's current Forward Work Programme.

Notwithstanding that some key general tasks for the Regulator impact on the SAP, a forward work programme needs to be developed along with the final SAP document that details projects that are specific to the SAP. We would expect to see such a work programme showing milestones to indicate what progress is being made. A detailed forward work plan would enable a review group to consider how the SAP is progressing.

8.0 Conclusion

The Consumer Council believes that the key to the success of SAP is action and momentum. This consultation should form part of an ongoing process that will invigorate the SAP and so make a real difference to the lives of vulnerable customers. In order to maintain the momentum the next steps need to be clearly laid out and taken without delay. A timeline is required to guide all the involved parties and show stakeholders where the SAP is going and when it will get there.

In the Executive Summary section, we have made a number of key recommendations. We believe that these represent important next steps for the SAP. In particular our recommendation that the Regulator works closely with a range of organisations that can speak for vulnerable customers is vital to the success of the SAP. The Consumer Council has already worked in partnership with the Regulator in commissioning research and is willing to play a further part in the ongoing development of the SAP.

For any additional information please contact Richard Williams, Senior Consumer Affairs Officer on:028 9067 4895 or by e-mail: rwilliams@consumercouncil.org.uk

Appendix 1

The 12 Ofgem Performance Indicators

- Percentage of customers experiencing fuel poverty;
- Number of customers using prepayment meters;
- Debt repayment levels;
- Tariff and payment choice;
- Disadvantaged customers and competition;
- Priority service registers;
- Self-disconnection;
- Effective energy efficiency advice;
- Warm homes initiatives;
- Customer satisfaction; and
- Prices.

Ofgem 1999 www.ofgem.gov.uk/Media/PressRel/Archive

Appendix 2

In Control- An investigation into the pattern of use and level of self-disconnection by gas and electricity Pay as You Go meter users in Northern Ireland. March 2006 (attached).