



***Consultation: NIAUR Consultation on the
Implementation of Energy Supplier Codes of Practice***

Date: 28 July 2014

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The Consumer Council welcomes the opportunity to respond to this consultation.

The General Consumer Council for Northern Ireland (the Consumer Council) is an independent consumer organisation, working to bring about change to benefit Northern Ireland (NI) consumers. Our aim is to *'make the consumer voice heard and make it count'*.

We have a statutory remit to promote and safeguard the interests of consumers and have specific functions in relation to energy, water, transport, food and postal services. These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers.

We have outlined below the responses to the Regulator's questions on the proposed minimum standards for the Codes.

Q.1 Do respondents agree that customers and suppliers will benefit from a consistent approach to interpretation of the licence conditions?

The Consumer Council believes strongly, as we stated in our presentation to the workshop on 22 May 2014, that the implementation of the proposed Codes of Practice is a win win for consumers and suppliers.

From a consumer perspective the benefits include an increased minimum level of protection they must receive in key areas such as complaints handling, preventing and dealing with energy debt, disconnections and special free services for vulnerable consumers.

For suppliers, the implementation of these minimum standards should result in improved customer service, increased consumer satisfaction, reduced complaints numbers, while allowing for the innovation and differentiation that is necessary in

competitive markets. Indeed, the Utility Regulator states in the consultation paper that “suppliers may go further in their own Codes of Practice (...) if desired.”

Q.2 Do respondents believe that the minimum standards guidance for Codes of Practice is the right approach? Please provide supporting information and evidence for your response.

The Consumer Council supports fully the implementation of minimum standards for the four Codes of Practice under consultation. In our opinion this is the only acceptable approach; otherwise we run the risk of allowing the potential development of inconsistent and harmful practices that are detrimental to consumers.

The potential negatives of not implementing higher minimum standards as proposed in the current consultation is best exemplified with the issue of marketing and sales malpractices by some energy suppliers in NI prior to the introduction of the Regulators’ Marketing Codes of Practice for domestic and business customers. These occurred despite the existence of the Consumer Council’s voluntary Marketing Code of Conduct and a wider legal framework enforceable by the Trading Standards Service. The Consumer Council provided extensive evidence on these practices and resulting consumer complaints at the workshop on 21 March 2013, as detailed in the attached file.



Q.3 & Q.4 Do respondents agree that where this consultation has an impact on the groups listed above, those impacts are likely to be positive in relation to equality of opportunity for energy consumers? Do respondents 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.

The Consumer Council believes that the introduction of the proposed Codes of Practice shall only have positive impact on Section 75 consumer groups. In particular consumers of pensionable age, disabled or those with dependants.

Q.5 Do respondents agree that the effective monitoring of Codes of Practice is essential? Are there any additional areas that should be covered in relation to monitoring, reporting and compliance?

The Consumer Council believes that it is essential to introduce effective monitoring systems and processes. This the most effective way to ensure that Suppliers comply with the requirements set out in the Codes, help identify emerging issues that need addressed and improve market transparency. Also, it is a legal requirement as set out in conditions 35 & 36 for electricity suppliers and 2.13 and 2.23 for gas suppliers.

The Consumer Council recognises the Utility Regulator's further work in the area of monitoring of licence compliance by suppliers as part of the Retail Energy Market Monitoring (REEM). We note the Regulator's indication that they will consider the proposed monitoring requirement under the REMM project and look forward to continue working with the Regulator to help develop the wider licence monitoring framework.

We would like to make the following comments in relation to the proposed Codes of Practice monitoring compliance and reporting requirements.

The Consumer Council welcomes the key monitoring indicators that the Regulator has proposed in pages 24 to 27 of the consultation paper. However, we note the following:

- There is only one requirement on the Code of Practice on Complaints Handling Procedure. We ask the Regulator to address this gap in the final document. Additional indicator for this code could include the following:
 - Average response and resolution time for complaints; and
 - Number of complaints investigations by the Consumer Council and Utility Regulator.

- The accessibility of the Codes of Practice in suppliers' websites continues to be an issue despite a current requirement to make the Codes of Practice available in a prominent section of the website. We ask the Regulator to address this issue either through a more specific requirement, or the introduction of an additional monitoring indicator.

With regards to the investigation of potential non compliance by suppliers, the Consumer Council supports the "trigger" approach that was agreed also for the Marketing Code of Practice. However, we ask the Utility Regulator to consider the following points:

- Suppliers are required to work with advice organisations when dealing with customer's debt. Therefore evidence from these organisations should also be used to monitor compliance or trigger an investigation.
- When investigating potential breaches, the onus should be on suppliers to demonstrate their compliance.

Q.6 Respondents are asked their opinion on the proposed banding for Indicators 11 and 12, Customer Debt. Some price controlled suppliers already collect and submit information at this level of detail. Respondents are asked if it is appropriate for non-price controlled suppliers to also provide information at this level of detail. We would ask respondents to provide supporting information and alternative suggestions.

The Consumer Council supports the proposed banding indicators 11 and 12 that would extend the requirement to provide information and figures on customer debt to non-price controlled suppliers. As well as help monitor compliance with the Codes of Practice, this information would be invaluable in two other key areas:

- Providing information and data on energy debt which is currently limited or nonexistent; and

- Helping assess the effectiveness of existing policy and requirement around identification and assistance of households in debt, both in the context of suppliers' obligations and wider government policy.

Q.7 Respondents are asked their opinion on what monitoring information should be published. We would ask respondents to provide supporting information on their proposal and be mindful of customer transparency as part of their response.

As competition continues to develop in Northern Ireland, it is imperative that consumers have access to any available relevant information about suppliers' performance and service standards so that they can make informed choices. Therefore the Consumer Council supports the publication of the widest possible monitoring information, possibly in a format similar to the Utility Regulator's Quarterly Transparency Report.

Q.8 Respondents are asked to provide information in relation to changes in practice which may be required. In particular we will take into consideration appropriate evidence in relation to costs and benefits. It will be most beneficial if responses regarding changes in practices and associated costs and benefits first state the individual Code and particular requirement in question, secondly set out why the change in practice is required, and thirdly set out any evidence regarding costs and benefits linked to the change in practice.

As we stated in our response to question 1 of this consultation and in our presentation at the workshop on 22 May 2014, the implementation of the proposed Codes provide significant and clear benefits to consumers and suppliers.

With regards to potential costs, the Consumer Council shares the Utility Regulator's view that any cost implications have been considered and consulted on extensively during the IME3 implementation process. Therefore we are of the opinion that the onus is on suppliers to demonstrate and quantify any additional costs they believe they will incur as a consequence of these provisions.

Q.9 Do respondents think that the publishing requirements outlined cover all relevant areas? Are there any further comments that respondents have with relation to publishing Codes of Practice?

The Consumer Council supports the Regulator's proposals around publications of Codes of Practice and would object to the removal or reduction of any of these requirements. However, we would like to highlight that accessibility of Codes of Practice in suppliers' websites continues to be an issue despite a current requirement to make the Codes of Practice available in a prominent section of the website. We ask the Regulator to address this issue either through a more specific requirement, or the introduction of an additional monitoring indicator.

Q.10 Do respondents think that the section of the Code in Annex 1 relating to identifying customers in difficulty covers all relevant areas? Are there any further comments that respondents have with relation to identifying customers in difficulty?

The Consumer Council welcomes and supports the requirements that the Regulator has proposed around identification of consumers in difficulty. This is a key priority area from a consumer perspective due to the high level of fuel poverty and the lack of data about energy debt in Northern Ireland. This requirement on suppliers has the potential to deliver immediate benefits to consumers while also help inform future policy development around energy debt.

However, we recognise the complexities, sensitivities and practicalities around this issue for suppliers and consumers. We believe there is scope for a more joined up approach between suppliers and consumer organisations, including the Consumer Council, around identification and assistance to consumers experiencing energy debt. The Regulator may wish to consider the creation of a forum or working group to help develop any appropriate protocols that facilitate the delivery of the new requirements. The Consumer Council would welcome the opportunity to take part

and contribute to any discussions that follow this consultation with the Regulator, suppliers and other interested organisations.

Q.11 Do respondents think that the section of the Code Annex 1 relating to payment arrangements and monitoring covers all relevant areas? Are there any further comments that respondents have with relation to payment arrangement and monitoring?

The Consumer Council welcomes the payment arrangements and monitoring provisions proposed by the Regulator. In particular we give our full support to the following:

- Introducing procedures by all suppliers to help set repayment levels consistently based on the consumer's ability to pay;
- Recognising and formalising the role that advice giving organisations must play that we touched on in our response to Q10;
- Promotion of the Consumer Council's complaint roles when disputes arise; and
- Clarification that the 40% recovery rate represents the maximum upper limit and not the standard rate. Historically this has been an issue for consumers, as suppliers required them to demonstrate their income before reducing the rate. This has been detrimental to consumers, as the process was on occasions lengthy, leading to disputes and increased arrears.

Q.12 Is there any further information you wish to provide in respect of Fuel Direct or Third Party Deductions?

The Consumer Council is aware that suppliers have historically agreed and arranged automatic deductions through the Social Security Agency when the consumer was in receipt of benefits. While we have no expertise on the practicalities of this system or Fuel Direct, we support the idea of increasing and formalising existing and additional deduction methods. However, this can only work effectively for

consumers as part of a holistic approach that focuses on early intervention, debt advice and support as the Regulator has proposed in this consultation.

Q.13 Respondents are asked for their opinion on the proposals for disconnection and reconnection fees. We would ask for supporting information on any comments made.

The issue of disconnection and reconnection fees is critical for consumers experiencing energy debt. An issue that worries the Consumer Council is the fact that it is the network operators and not suppliers, who carry out disconnections and reconnections. The associated charges are approved by the Regulator and included in the connection policy or charging statement. Therefore, unless the Regulator extends the requirements in this to NIE, firmus and Phoenix Natural Gas, we are concerned that the proposals will be largely ineffective.

In any case, it's highly improbable that consumers will be able to afford the increased repayments associated with the disconnection and reconnection fees, since they were unable to repay the previous debt that led to the disconnection. For this reason we remind the Regulator about the importance of introducing strong protection around early identification and support consumers in debt as are set out in this consultation paper. Every effort should be made in all instances to prevent debt related disconnections.

Q.14 Do respondents think that the section of the Code in Annex 1 relating to methods and procedures to avoid disconnection covers all relevant areas? Are there any further comments that respondents have with relation to identifying customers in difficulty?

Broadly speaking the Consumer Council supports the Regulator's proposals in this area. However, similarly as we described in our response to Q13, the requirements that the Regulator proposes do not reflect the role that distribution companies play in disconnections and reconnections. The main issue is that all the obligations and

requirements apply only to suppliers, whereas the distribution company is actually responsible for carrying out the work and on occasions engaging with the consumer, for example during the visit. Therefore the Consumer Council asks the Regulator to clearly define roles and responsibilities around disconnection and reconnection in the final Codes of Practice.

Q.15 Do respondents think that the section of the Code in Annex 1 relating to providing accurate and timely bills covers all relevant areas? Are there any further comments that respondents have with relation to providing accurate and timely bills?

The Consumer Council welcomes the Regulator's proposals around the provision of accurate and timely bills. In particular we support the proposed method for recalculating inaccurate bills. This is something the Consumer Council has asked consistently during the IME3 implementation process based on the Financial Remedy Framework that we have in place with some suppliers. We ask the Regulator to require suppliers to inform consumers of the Consumer Council's complaints role in the event of a dispute.

Q.16 Are there any other areas which the Code on Payment of Bills should cover?

The Consumer Council notes that there's no reference to the billing provisions that are being introduced as part of the implementation of the Energy Efficiency Directive. These include meter readings, customer reads and information in energy bills. We are of the opinion that this should be included in the final Codes of Practice at the earliest possible opportunity to avoid delays and duplication.

Q.17 & Q.18 Do respondents agree that a consistent definition of debt across suppliers, for the purpose of the Code of Practice on the Payment of Bills, should be established? Respondents are asked their opinion on the proposed definition of debt with regards to the Code of Practice on Payment of Bills or suggest an alternative definition which may be used across all suppliers. We would ask

respondents to provide supporting information as to why a specific definition would be appropriate and be mindful of monitoring procedures as part of their response.

The Consumer Council supports the introduction of a consistent definition of debt across suppliers as proposed by the Regulator.

Q.19 Respondents are asked to provide any additional comments on the attached draft Code minimum content, which they feel will help to improve the Code.

The Consumer Council has not further comments to make other than those included in our previous responses.

Q.20 How could suppliers monitor self-disconnection and self-rationing in prepayment customers?

Consumer Council research carried out in January 2014 shows that amongst gas PAYG customers, 20 per cent said they had self-disconnected in the previous 12 months, with this rising to 31 per cent for electricity PAYG customers. Of these customers who had self disconnected, 25 per cent of gas customers and 22 per cent of electricity customers had done so because they could not afford to top up.

The Consumer Council does not have sufficient knowledge of suppliers' billing systems to make practical suggestions. However, we support the introduction of requirements on suppliers to monitor consumption of prepayment customers that can help identify consumers in need.

Q.21 Do respondents think that the section of the Code in Annex 2 relating to the services provided covers all relevant areas?

The Consumer Council is of the opinion that all relevant areas are covered in relation to services to be provided to vulnerable consumers. However, we are concerned with the wording "reasonably practicable", which recent experience shows represents a get out of jail card for suppliers. For example, adaptors for gas prepayment meters haven't been available for some time, as the existing stock has

been exhausted and compatible units are no longer manufactured. However, because of the wording “reasonably practicable” suppliers have been deemed to meet their obligations despite being unable to provide the adaptors to consumers who are disabled. The Consumer Council asks the Regulator to consider strengthening the provisions to ensure that vulnerable consumers received the highest possible protection and assistance under the Code.

Q.22 Do respondents think that the section of the Code in Annex 2 relating to disconnection of customers who are of pensionable age, disabled or chronically sick covers all relevant areas? Are there any further comments that respondents have with relation to disconnection?

The Consumer Council is of the opinion that the proposed section of the Code on disconnection will provide strong protection to vulnerable consumers.

Q.23 Do respondents think that the section of the Code in Annex 2 relating to raising awareness of service provision covers all relevant areas? Are there any further comments that respondents have with relation to awareness raising?

The Consumer Council’s Consumer Support Team is currently carrying out research around Critical and Customer Care registers by energy distributors and suppliers. The preliminary findings of the report show that all suppliers undertake some form of promotion with regards to its Customer Care Register. However, the level and type of promotion is not consistent across all suppliers.

The majority of energy suppliers promote the Customer Care Register at the point of sign up and some of the newer suppliers into the market rely on this as their main form of promotion. However, other suppliers promote the Register further, for example one writing to all its customers on a yearly basis to advise them of the existence of the Register while another holds a promotional campaign every winter.

A key concern for the Consumer Council is that not all suppliers promote the Customer Care Register directly via its website. Many make reference to it within

their Code of Practice which is available online but the information is not easily accessible. This is an area of improvement that can be addressed through the Codes of Practice under consultation.

Q.24 Are there any other areas which the Code of Practice on provision of services for persons who are of pensionable age or disabled or chronically sick should cover?

No further comment.

Q.25 Do respondents agree that a consistent definition of a complaint for all suppliers, for the purpose of the Code of Practice on Complaints Handling Procedure, should be established?

Based on the Consumer Council extensive experience as the statutory complaints handling body for electricity and gas complaints, we believe strongly that all suppliers should adopt a consistent definition of complaint. Indeed, for years now energy suppliers have dedicated extensive time and resources to challenge the Consumer Council's classification of their complaints with no benefit to the consumers. The evidence suggests that a consistent definition should improve transparency, monitoring and reporting.

Q.26 Respondents are asked their opinion on the proposed definition of a complaint with regards to the Code of Practice on the Complaints Handling Procedure or suggest an alternative definition which may be used across all suppliers. We would ask respondents to provide supporting information as to why a specific definition would be the most appropriate and be mindful of monitoring procedures as part of their response.

The Consumer Council supports the definition of complaint proposed by the Regulator. This is broadly in line with the definition included in the firmus

energy Complaints Handling Code from 1 March 2013¹ that was agreed with the Consumer Council and approved by the Regulator as part of the IME3 implementation process.

Q.27 Do respondents think that the section of the Code in Annex 3 relating to the accessibility of complaints handling procedures covers all relevant areas? Are there any further comments that respondents have with relation to accessibility?

The Consumer Council welcomes the proposals in this area. In particular we welcome the requirement to place a link to the complaints procedure “in a prominent position” of the website. From our experience this has not been the case consistently and it’s an issue that must be addressed and future compliance monitored.

Q.28 Do respondents think that the section of the Code in Annex 3 relating to the transparency of complaints handling procedures covers all relevant areas? Are there any further comments that respondents have with relation to transparency?

The Consumer Council welcomes the proposed arrangements aimed at ensuring the transparency of suppliers’ Complaints Handling Procedure. However, there are two key points that must be addressed. We have provided details below.

The Regulator proposes that suppliers shall be obliged to include information on compensation arrangements (if applicable). Based on our experience working with suppliers investigating consumer complaints, obtaining reimbursement, compensation or goodwill financial gestures has consistently been a challenge. Therefore we ask that this requirement is made mandatory in all cases without exception by removing the “if applicable” and adding “reimbursement”. Furthermore, the final minimum standards should be more prescriptive and provide more detail around this point, for example, referencing the proposals for solving

¹ <http://www.firmusenergy.co.uk/media/Approved-Gas-Distribution-Complaints-Handling-Code-Coming-into-Effect-March-1st-2013.pdf>

billing errors resulting in over or under payments and any other frameworks that suppliers wish to implement alongside the Individual Guaranteed Service Standards.

The Regulator makes reference to an “agreed classification” that suppliers must use to classify all complaints. The Consumer Council asks the Regulator to clarify how the complaints classification will be agreed, as we cannot see any other reference in the consultation document. We request also to be consulted prior to final agreement, as we have our own complaints classification that we have developed with suppliers and this may have to be amended.

Q.29 Do respondents think that the section of the Code in Annex 3 relating to the promptness of complaints handling procedures covers all relevant areas? Are there any further comments that respondents have with relation to effectiveness?

The suppliers’ licence states that the period stipulated to resolve any complaint should not exceed three months. We propose that suppliers are required to write to at the end of the three month if the complaint remains unresolved at that time to the complainant. The letter will inform the complainant that the complaint has not been resolved and if they wish they can contact the Consumer Council for further help. The letter must include the contact details of the Consumer Council. We believe that this provision will give consumers additional protection when disputes arise and should help resolve complaints more promptly and effectively.

Q.30 Do respondents think that the section of the Code Annex 3 relating to alternative dispute resolution covers all relevant areas? Are there any further comments that respondents have with relation to alternative dispute resolution?

The Consumer Council welcomes the proposal to continue our role as statutory alternative dispute resolution body and will continue to work closely with suppliers; third sector organisations and the Regulator to ensure continue fulfil our responsibilities to the highest possible standard.

Q.31 Are there any other areas which the Code of Practice on Complaints Handling Procedure should cover?

The Consumer Council believes that one area where the proposals do not go far enough is around reporting of complaints figures by all suppliers. We ask the Regulator to require suppliers to publish their complaints figures on their website annually. Also, the Regulator should prescribe the format and information that should be included in the report, with an emphasis on outcome and complaints resolution to ensure that the data is consistent and comparable across suppliers and is meaningful to consumers.

Q.32 Do respondents have any comments to make on the proposed industry standard to update prepayment meters for a change in tariff? Do respondents have any comments to make on how customers can be informed to ensure they understand this process?

Historically this issue of tariff changes for prepayment meter customers has caused dissatisfaction for consumers. For example, on one occasion a supplier rolled out the tariff change code without prior notification and on another occasion consumers did not receive the instructions and notification letter until after the tariff had come into effect.

The issue in all the cases described above is suppliers' poor and ineffective communications with consumers. Therefore the Consumer Council welcomes the introduction of consistent procedures across suppliers to update prepayment meters for a change in tariff to ensure the process is clear and transparent. The procedure should detail the timeframes for rolling out tariff changing codes and issuing notification to consumers.

Q.33 Do respondents think that the section of the Code in Annex 4 relating to the information provision covers all relevant areas? Are there any further comments that respondents have with relation to information provision?

The Consumer Council welcomes the Regulator's proposals around information provisions for prepayment meter customers. However, we would like to highlight that information on some prepayment meter tariffs such as Powershift is not available consistently on suppliers' websites. Also, we are aware from our investigation of complaints that in instances when a prepayment meter has been installed as an alternative to disconnection, consumers have not received any information on how to operate and where to top up the meter. This information should be provided prior to the meter replacement.

Q.34 Do respondents think that the section of the Code in Annex 4 relating to the suitability of a prepayment meter covers all relevant areas?

The Consumer Council welcomes the proposals around suitability of prepayment meters. These are critical to consumers, particularly for vulnerable households in the context of non availability of adaptors for gas meters that we referred to in our response to Q21.

Q.35 Do respondents think that the section of the Code in Annex 4 relating to payments for prepayment customers covers all relevant areas? Are there any further comments that respondents have with relation to payments?

The Consumer Council asks the Regulator to require that suppliers provide information on meter replacement charges. For example gas customers moving to a newly built property may be asked to pay a meter replacement fee if they wish to change meter. Similarly, consumers who have a keypad meter installed may be asked to pay a replacement fee if they wish to revert to credit meter.

Q.36 Are there any other areas which the Code of Practice on Services for Prepayment Meter Customers should cover?

The Consumer Council notes that there are no references in the Regulator's proposals for the Codes of Practice to repayment terms when the prepayment meter is fitted as a result of debt. We ask that at the very least there should be a cross reference to the Code on Payment of Bills or a summary of the key relevant points.



The Consumer Council

Making the consumer voice heard and making it count

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