

**Consumer Protection Strategy Review and Proposed New Consumer Protection Programme
– commencing April 2019**

Inspire Consultation Response, December 2018

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Overview

Inspire is a charity and social enterprise providing mental health, addiction, autism, learning disability and workplace wellbeing services across Northern Ireland and the Republic of Ireland.

Inspire wish to engage with this consultation on the basis that we support significant numbers of people who experience challenges accessing services. We are also conscious that problem debt – not least that accrued from utility services – increases the likelihood that people will experience mental health problems.¹

Inspire welcome the intention of the proposals to focus on ‘how domestic electricity, gas and water consumers will be protected in Northern Ireland for the next three years’. We commend the Utility Regulator for its efforts to improve consumer protection for all, especially the most vulnerable, who rely on the services of utility companies.

As a preliminary remark with regards to this consultation, we acknowledge that the regulation of this market is technical, intricate and necessitates balancing competing interests and stakeholder perspectives. Yet as a large provider of support to vulnerable people, Inspire is well-placed to articulate the challenges faced by this section of our society, which depend on affordable and accessible electricity, gas and water services.

Furthermore we commence this submission by noting that utility providers – regardless of their ownership model and place on the public-private spectrum – are afforded special status which while regulated, confers immense power in the supply and distribution of resources. As the issue of consumer protection in terms of privatised and semi-privatised infrastructure gains increased focus, we maintain that such services should serve society first and if necessary, shareholders second.

Inspire believe that the emphasis in the new Consumer Protection Programme should be upon adjustments to practice on the part of utility companies rather than upon placing an emphasis on adapting the behaviour of people with vulnerabilities. We are keen to assist the regulator in its aim of ‘refresh[ing] its thinking and plan[ning] for consumer protection in Northern Ireland in order to ensure the delivery of consumer protection best practice’ (p.7).

Key Points

- **Ensure all consumers achieve positive and fair outcomes in the regulated sector**

'It is clear that a renewed emphasis has emerged which focuses on fairness, protection and positive consumer outcomes and regulators are being challenged to act robustly to prevent harm to consumers and ensure all consumers achieve positive and fair outcomes in the regulated sectors.' (Consultation document, p.7)

A significant section of society in Northern Ireland have characteristics which *may* make accessing services more challenging than would otherwise be the case. The most recent statistics (September 2018) show that 125,000 people across Northern Ireland claimed Disability Living Allowance.² In the Department of Health's annual Health Survey (NI) 2017-2018, 18% of respondents scored highly on the GHQ12, suggesting they may have a possible mental health problem.³ Figures from February 2018 indicate that 370,000 people in Northern Ireland live in poverty.⁴

As disability and poverty represent two factors which hinder 'positive and fair outcomes in the regulated sector', the general question must be posed 'Are the proposed projects contained in the Consumer Protection Programme likely to ensure all consumers achieve positive and fair outcomes?' It is not clear to Inspire that the proposed projects (p.9-11) combine to form a sufficiently radical approach to meet the CPP's *raison d' être* – protection for all, including the hundreds of thousands of vulnerable consumers in Northern Ireland.

We welcome the proposed review of Care Registers suggested for Year 3 (p. 10) as part of a strategy to promote the protection of consumers. Yet, while recognising that there was a (network companies) Care Register review in 2017-18 with proposals for reforms, as it stands the Care Register system appears to have had limited uptake when compared to measurable vulnerabilities (such as disability and poverty) across society in Northern Ireland.⁵

Exploring what utility providers offer on their websites under the Care Register scheme, it is not entirely clear how far-reaching and impactful this initiative is in its current form. The scheme appears to focus largely on physical disability. For example, one Care Register application form offered by a provider asks for information only about the following impairments: 'Blind or visually impaired / Deaf or hearing impaired / Have a mobility difficulty / Have difficulty in using your hands / Have a speech difficulty'. Moreover, the scheme imposes challenges on the consumer who wishes to avail of the limited, additional support for vulnerable people such as: internet/computer/phone access, ability to complete a form and the provision of documentary evidence.

A response to such criticism is likely to be that utility providers require some system of verifying a vulnerability. Nevertheless, the current scheme is fundamentally counterproductive because it places further pressure on a vulnerable person and/or carer who does apply and no doubt dissuades others from applying.

As we share the Regulator's belief that 'it is not appropriate to limit vulnerability to something that only affects specific customer groups' (p. 16), and with due regard to data protection obligations, Inspire favours the pro-active identification of, monitoring of, and engagement with, customers who are vulnerable. To this end, we support the recommendation of *Money and Mental Health* that:

Energy suppliers should invest in proactive analysis of this data to identify and support vulnerable customers, particularly those at risk of going cold in winter those whose extreme low use suggests they may be living on a very low income, and those who appear to be on the verge of slipping into debt problems.

(Money and Mental Health Problems: Breaking the Link, MMH, 2017)

It is inadequate to maintain that the Care Register scheme 'offers help if people want it', when it remains the case that accessing help is at best, challenging or at worst, impossible for a significant portion of this target group. Unfortunately, it seems that 'performance metrics and reporting on vulnerable consumer protection measures across regulated companies' (p. 11) are not to be prioritised during Years 1-3 in the CPP. Inspire recommend a re-imagining of the process of service provider engagement with vulnerable people that is comprehensive rather than piecemeal.

- **Affordable Services for Vulnerable Customers**

CPP Year 1 and 2

Proposed Project:

Consumers experiencing an unforeseen change in circumstance which heightens their vulnerability (a) improved early identification of customers at risk of crisis and (b) ensure that customers made vulnerable through unforeseen circumstances (e.g. bereavement or health issue) are protected.

(Consumer Protection Strategy Review and Proposed New Consumer Protection Programme, 2018, p. 9)

Inspire welcome this proposed CPP initiative. We would be particularly keen to see measures introduced to pro-actively identify and support consumers with vulnerabilities pay the lowest possible tariffs. However, we note with concern that a number of the projects described as 'not currently prioritised during Years 1-3' (p. 10-11) are issues which left unaddressed will continue to have significant negative financial implications for vulnerable consumers such as: 'Review energy consumer pathways to the best deals'; 'Review energy efficiency Code of Practice requirements'; and 'Review equality of access for consumers who have no access to a bank account and or no internet access'. We recommend that these projects be prioritised in order to protect vulnerable consumers.

Most significantly, not acting to review energy consumer pathways to the best deals will hit the vulnerable hardest. *Money and Mental Health* note that:

Shopping around and switching suppliers is the key to getting a good deal in the energy market. But navigating such a complex marketplace is often harder for people with mental health problems, which commonly affect concentration span and decision making abilities. Switching can also mean losing entitlements such as warm home discount or having to reapply for priority services, which can be difficult for those with social anxiety or because of mental health stigma. Energy suppliers should work together to adopt common eligibility criteria for warm home discount, and should seek consent to share information about customers' vulnerabilities and support needs when they move between suppliers.

(Money and Mental Health Problems: Breaking the Link, MMH, 2017)

Similarly, Inspire believe that utility companies can adapt their practices to more effectively provide services for all sections of society (rather than, say, requiring people to seek entry on to the Care Register) – if the will is there.

In this vein, we have some concerns regarding the proposal to explore ‘the potential for supplier charities e.g. hardship funds’ to mimic the operation of ‘food banks’ (p.47). In public policy terms such a model has disadvantages; it risks framing affordable service provision to vulnerable people as a charitable activity rather than a duty to be borne by the utility provider. We agree with that there is a need for hardship support but we would suggest that more positive models be explored such as Energy Buying Clubs.⁶

Most importantly, as disability and mental ill-health often result in people paying more for the same services – we are determined that this should never be the case in terms of utilities. Inspire recommends that measures be introduced to oblige utility providers to ensure vulnerable persons are paying the lowest possible tariff.

- **Engagement**

CPP Year 3

Proposed Project:

Establish consumer/industry/UR group for consumer issues

(Consumer Protection Strategy Review and Proposed New Consumer Protection Programme, 2018, p. 10)

We suggest that all initiatives that will have a consumer protection dimension - those under consideration and throughout the process of implementation - be guided by a process of co-design with groups of people who have experience of living with vulnerabilities. By so doing, projects are more likely to effectively address the needs of such groups.

Inspire welcome the development of a forum to address consumer issues on an ongoing basis. We believe that a continuing dialogue and meaningful engagement with stakeholders including representatives of vulnerable groups and within a robust regulatory context may promote improved outcomes for all.

Conclusion

Whilst regulators have existing provisions to have due regard for the needs of defined groups of vulnerable customers, this has tended to be secondary to the promotion of competition, which it was thought would adequately deliver the best outcomes for consumers. Fairness of outcomes for all consumers and the needs of those who are unable to engage with the competitive market have now been given a new emphases. This is due to the evolution in thinking in GB in regards to consumer outcomes. This development in thinking in GB has its foundations in the realisation that market outcomes have at times failed certain consumer groups.

(Consumer Protection Strategy Review and Proposed New Consumer Protection Programme, 2018, p. 15)

In 2017, Inspire embarked on a data collection and consultation initiative called the Big Conversation. Through the Big Conversation, we asked people with lived experience of mental health and/or addictions and the staff who support them what would make life better for them. The 25 conversation sessions provided key recommendations including the following:

- Removal of barriers to accessing services;
- Greater understanding of, and support to address, the impact of mental ill health or addiction on personal finances; and
- Elimination of stigma and prejudice.

Overall, the central theme of the Big Conversation was the need to create a society defined by a wellbeing eco-system – in effect that all aspects of life – including service provision and access – should be fashioned to support all people, at all times.

We welcome the Utility Regulator’s commitment to a new Consumer Protection Programme and many of its proposed projects. As the Programme develops, we would encourage a deepening emphasis on the measures utility companies can implement in order to improve consumer protection rather than a focus on adapting the behaviour of vulnerable people.

We would welcome the opportunity to engage in a dialogue to ensure that access to the utility services is part of a wellbeing eco-system to ensure that all people in our society are supported at all times including the most vulnerable.

¹ See *Money and Mental Health* available at: <https://www.moneyandmentalhealth.org/money-and-mental-health-facts/>

² See *Benefit Claimants by Extract Date* available at: <https://www.communities-ni.gov.uk/publications/benefit-claimants-by-extract-date-provisional>

³ Health Survey (NI): First Results 2017/18 available at: <https://www.health-ni.gov.uk/sites/default/files/publications/health/hsni-first-results-17-18.pdf>

⁴ *Poverty in Northern Ireland 2018* available at: <https://www.jrf.org.uk/report/poverty-northern-ireland-2018>

⁵ See *Care Register Review: Special Provisions For Vulnerable Customers*, p. 50-52, available at: <https://www.uregni.gov.uk/sites/uregni/files/consultations/Care%20Register%20Review%20Consultation%20July%202017.pdf>

⁶ See for example *Oil Buying Clubs*, NIHE, available at: https://www.nihe.gov.uk/index/advice/energy_environment/oil_buying_clubs.htm