

Consumer Scotland's response to the Department of Business and Trade's consultation on Smarter regulation: strengthening the economic regulation of the energy, water and telecoms sectors

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1. About us

Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, we are accountable to the Scottish Parliament. The Act provides a definition of consumers which includes individual consumers and small businesses that purchase, use or receive products or services. Our purpose is to improve outcomes for current and future consumers and our strategic objectives are:

- to enhance understanding and awareness of consumer issues by strengthening the evidence base
- to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors
- to enable the active participation of consumers in a fairer economy by improving access to information and support

We work across the private, public and third sectors and have a particular focus on three consumer challenges: affordability, climate change mitigation and adaptation, and consumers in vulnerable circumstances.

2. Consumer Principles

The Consumer Principles are a set of principles developed by consumer organisations in the UK and overseas.¹ Consumer Scotland uses the Consumer Principles as a framework through which to analyse the evidence on markets and related issues from a consumer perspective.

The Consumer Principles are:

- Access: Can people get the goods or services they need or want?
- Choice: Is there any?
- Safety: Are the goods or services dangerous to health or welfare?
- Information: Is it available, accurate and useful?
- Fairness: Are some or all consumers unfairly discriminated against?
- Representation: Do consumers have a say in how goods or services are provided?
- Redress: If things go wrong, is there a system for making things right?

We have identified **access** and **safety** as being particularly relevant to the consultation proposal that we are responding to – see section 3.

3. Our response

Consumer Scotland is responding to:

Consultation proposal (7): The government will coordinate and work collaboratively with regulators, industry and devolved administrations to explore the creation of a single, multi-sector Priority Services Register.

Please note, Consumer Scotland has recently provided a broader response to the call for evidence² on Smarter regulation and the regulatory landscape.

Q. 23. What are your views on the creation of a single, multi-sector Priority Services Register?

Consumer Scotland strongly supports the creation of a single, multi-sector Priority Services Register (PSR). PSRs enable the provision of free services relating to safety, access and communication, and we consider enhanced PSR data-sharing to be a key development in improving outcomes for consumers in vulnerable circumstances across sectors. However, to understand why such a register is needed, it is important to first identify the problems it would help to resolve. These include the following aspects:

- Identifying vulnerability is challenging. Research commissioned by the UKRN³ has noted that service providers are moving away from a reliance on self-reporting in favour of proactive approaches to identifying consumers in vulnerable circumstances. Self-reporting had historically worked well for a sub-set of consumer vulnerabilities, for example, those with vulnerabilities which may remain relatively stable, such as some physical disabilities. However, consumers who do not perceive themselves as being vulnerable, or who move in and out of vulnerability, are less likely to self-report on their circumstances. The limitations of self-reporting are

supported by the findings of the Commission for Customers in Vulnerable Circumstances⁴ which reported that as many as eight out of 10 customers would not tell their supplier if they were in a potentially vulnerable situation. Consumer Scotland suggests that enhanced data-sharing could help close this identification gap.

- Awareness of PSRs is low. The benefits of being registered for priority services are often not well promoted, and eligible households can miss out. Research by the Consumer Futures Unit in 2019⁵ found that consumers generally had low awareness of non-financial forms of support unless they had actually used them, or knew someone who had. Ofgem vulnerability data from the same year⁶ showed that Scotland had the lowest proportion of consumers on the PSR in Great Britain. Uptake is improving, but Consumer Scotland would suggest that meeting registration targets does not guarantee good outcomes – improved data-sharing, and a process of regular data-cleansing, can help ensure that the correct households are registered.
- People are often on one PSR, but not others. This is not a problem in instances of sector-specific vulnerability, but for many people this is not the case and there would be benefits in also being on the PSRs of their other service providers. Similarly, in the context of switching, the Retail Energy Code Company (RECCo), which owns and manages the electricity and gas enquiry services, has argued⁷ that individual approaches to establishing and maintaining PSRs have resulted in inconsistencies that mean consumer needs have been met with poor outcomes – highlighting how standardised needs codes, and improved consistency of vulnerability reporting, can improve outcomes.

At Ofgem’s Vulnerability Summit in April 2023, CEO Jonathan Brearley reiterated the regulator’s commitment to cross-market data-sharing on PSRs, proposing an extension to work undertaken with Ofwat over a number of years.⁸ He stated that: “we should all consider building towards a joint register, not just between water and energy, but potentially local and national government... Ideally this joint register would be based around a single principle: ‘tell us once’ - where families who have vulnerabilities tell one agency about this and, with their permission, this is shared across all others with a single, reliable source of data to anticipate, identify, and respond to the needs of those customers”. Consumer Scotland supports this vision of a joint register and would welcome an approach to priority service registration that is underpinned by the ‘tell us once’ principle.⁹

A shared PSR will become a reality later this year when distribution network operators (DNOs) and water companies in England and Wales combine their datasets.¹⁰ Of the 37 combinations of those companies serving customers, 35 are expected to be sharing PSR

data by 31 March, or within weeks of that deadline, and we understand there are also plans for telecoms companies¹¹ and energy suppliers to join in future.

Consumer Scotland welcomes the commitment in the consultation proposal to work collaboratively with devolved administrations, but notes that Scottish Water is not yet part of the shared PSR. It is worth highlighting that Scottish Water is unique when compared to energy suppliers and water companies in England and Wales in that they do not directly bill customers and do not hold customer data unless they suffer a service interruption. Their PSR sign-ups largely occur during such interruptions, although in recent years they have been actively promoting the PSR to customers (see also Q. 24). So whilst a data-sharing arrangement involving Scottish Water might work slightly differently, it is imperative that Scottish Water is involved in the next stages of development of the shared PSR, to ensure equivalent coverage for consumers in Scotland.

Q. 24. What are the best data sources of vulnerability that the PSR should use? Who should be able to input data?

Consumer Scotland understands through stakeholder engagement that there is potential for the shared PSR to enable agencies to leave a 'warm lead' or PSR flag which would prompt the PSR holder to make contact with a consumer who may require, or benefit from, priority services. Innovations such as this will be key in improving the reach of the PSR moving forward. Partnership-working is another means through which data-sharing can help ensure that the most vulnerable people are being identified for priority services registration. Scottish Water and SGN's partnership with Kidney Care UK,¹² which offers direct specialist support to more than 5000 people with kidney failure across Scotland, is a good example of this.

Q. 25. What vulnerabilities and services should the PSR cater for?

A gap analysis on a sample of energy industry PSRs¹³ was commissioned by the Energy Consumers Commission¹⁴ in Scotland in 2019. This found that those most commonly excluded from vulnerability considerations included:

- consumers with mental health conditions
- low income households
- first time occupants
- households who are digitally excluded
- consumers with reduced capacity, such as full-time carers and lone parents

- households with limited ability to interpret, such as people for whom English is not their first language or consumers with low levels of numeracy/literacy.

Consumer Scotland would suggest that these gaps arise more from how service providers have attempted to identify and reach certain consumer groups (see also Q. 23) as opposed to any obvious gap in needs codes. Supplementary needs codes, i.e. additional to the core codes used for PSR data-sharing, are a useful tool through which service providers can record vulnerabilities that may be more prevalent within their customer base, or specific to their sector.

The Energy Consumers Commission report calls for the introduction of a financial vulnerability flag or needs code. Consumer Scotland maintains that the energy industry needs to improve its arrangements for identifying financial vulnerability, for the purposes of crisis intervention and targeted energy bill support, and we are supportive of further consideration being given to the most effective mechanism(s) for achieving this.

¹ [cas_cfu_booklet_on_consumer_principles.pdf](#)

² [Smarter regulation and the regulatory landscape - GOV.UK \(www.gov.uk\)](#)

³ [UKRN/ Britain Thinks Literature Review on Identifying Vulnerable Consumers | UKRN: the UK Regulators Network](#)

⁴ [CCVC-Vulnerability-Report-2019.pdf \(energy-uk.org.uk\)](#)

⁵ [Making it Easy: Simpler Registration for Consumers in Vulnerable Situations | Citizens Advice Scotland \(cas.org.uk\)](#)

⁶ [Vulnerable consumers in the energy market: 2019 \(ofgem.gov.uk\)](#)

⁷ [How can we improve the Priority Services Register for vulnerable consumers? - Retail Energy Code Company](#)

⁸ [UKRN-Making-better-use-of-data-to-identify-customers-in-vulnerable-situations-follow-up-report.pdf](#)

⁹ In work commissioned by Consumer Scotland, Dr Carolyn Hirst noted the enduring appeal of the 'tell us once' approach, as cited in vulnerability literature

¹⁰ [Shared PSR to go live at end of March - Utility Week](#)

¹¹ [Government calls for shared multi-sector PSR - Utility Week](#)

¹² - [Scottish Water](#)

¹³ [Energy Consumers Commission – The impact and reach of the Priority Services Register in Scotland | Citizens Advice Scotland \(cas.org.uk\)](#)

¹⁴ Now the Energy Consumers Network, which is convened by Consumer Scotland