

Consumer Scotland's response to Ofgem's statutory consultation on consumer standards

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Who we are

Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, it is accountable to the Scottish Parliament. Consumer Scotland's purpose is to improve outcomes for current and future consumers and its strategic objectives are:

- to enhance understanding 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

Overview

Consumer Scotland's evidence base shows that overall satisfaction with energy supplier customer service standards is low. The Spring 2023 wave of our Energy Affordability Tracker¹ found that:

- Forty-six percent of consumers thought their supplier made it easy to contact them - this had declined from 51% in Spring 2022. Almost a quarter (24%) reported that they did not think their supplier made it easy to contact them
- Fifty-six percent of consumers thought the language used in their bills was easy to understand, with 20% disagreeing
- Fifty-four percent agreed that their bills provided guidance on what to do if they are worried about paying

The final report from the Scottish Energy Insights Coordination group² (SEIC), for which Consumer Scotland acted as secretariat, highlights the increased pressure on the advice sector³ when energy suppliers fail to meet their customer service obligations. One SEIC member estimated that 20% of calls they received in winter 2022-23 were from consumers who were not able to contact their supplier. A large part of this increased demand upon advice agencies is in relation to relatively straightforward energy retail issues, which in turn can diminish organisations' capacity to effectively deliver their core services – such as providing energy efficiency advice, or supporting consumers with the adoption of low-carbon heating technologies.

In our response⁴ to the consultation on the consumer standards framework, Consumer Scotland broadly agreed with Ofgem's priorities for improving standards of service in the retail market, and

highlighted reasons why addressing customer service failings in the sector was critical. First, that suppliers' performance was in some cases falling below what was required of them in the licence code, and this was exacerbating consumer concerns about energy prices. This is especially true when consumers are advised to contact their supplier if they are struggling to pay their bills, but are unable to reach them. Second, that poor customer service undermines trust in the energy sector, and creates barriers to the changes required by consumers in helping the sector decarbonise. Therefore, our response suggested that the overall success of the framework could be measured by its ability to effectively mitigate these risks.

The proposed additions to the licence code, and the draft contact ease guidance, as outlined in the statutory consultation on consumer standards, feel like logical next steps towards improving customer service standards in the sector. However, this will only be realised if standards are upheld through robust compliance monitoring, appropriate use of reputational incentives, and proportionate enforcement action when standards are not met. In addition to this, Consumer Scotland would like to see:

- An outcomes-based approach to compliance that goes beyond meeting targets
- Moves towards a minimum standard on the supplier provision of agency lines
- Suppliers being encouraged to achieve a recognised accreditation for customer service

Response

Please note: Where licence conditions have been quoted in our response, **bold** denotes the text which are proposed new additions to the licence code.

Question 1. Do you have any comments or questions on our proposed licence changes to improve supplier contact ease?

The majority of the proposed new licence requirements relate to suppliers' enquiry services, including a requirement for enquiry services to be open 24 hours a day for customers that have lost gas⁵ or power due to supplier issues.

SLC 31G.3A c) states that suppliers must:

Be available 24 hours every day to receive enquiries from, and offer assistance, guidance, or advice to, Domestic Customers who are experiencing an interruption in supply of electricity in circumstances where the interruption in supply is such that it is the licensee's responsibility to resolve it.

It noted that 'gas' is not included in the draft wording of SLC 31G.3A and we would be keen to know if this is intentional, and if so, the reasons for this. Often gas interruptions are an in-direct result of electricity interruptions, and would therefore be covered under this wording, but for instances that this is not the case, for e.g. a gas meter fault, consumer protection would be enhanced by including an explicit reference to 'gas' in the licence. Consumer Scotland otherwise welcomes the requirement for suppliers to provide a 24 hour service to households who are off-supply. As per the protections

for Domestic Customers in Vulnerable Circumstances under the proposed SLC 31G.3C, we would expect this service to be provided free of charge.

SLC 31G.3B requires that:

When providing the enquiry service the licensee must implement appropriate processes to identify and prioritise enquiries from:

- **Domestic Customers in Vulnerable Situations who, due to their circumstances or characteristics, may require immediate assistance, guidance or advice; and**
- **Representatives acting on behalf and in the interest of a Domestic Customer in a Vulnerable Situation who, due to their circumstances or characteristics, may require immediate assistance, guidance or advice.**

There are well-evidenced challenges associated with identifying vulnerability amongst a customer base, and therefore a renewed focus on process is welcome. The Commission for Consumers in Vulnerable Circumstances⁶ highlighted the negative outcomes that a failure to identify vulnerability can result in, stating that: “if a customer’s vulnerability is not identified by an energy supplier, it is highly unlikely they will get the help they need”. The Commission however warned against an over-reliance on self-identification, with eight out of ten customers reporting that they would not tell a company if they were in a potentially vulnerable situation. In our response to the framework consultation, Consumer Scotland called for monitoring of consumer behaviours to be improved to enable early intervention when vulnerability is identified. In terms of financial vulnerability, this could incorporate a more effective use of debt indicators or processes to monitor other changes to payment behaviours.

From our engagement with stakeholders in the advice sector, we are aware of recent challenges that some have encountered when attempting to contact suppliers and advocate on a customer’s behalf. Recognition of this in the licence code is welcome, but firmer wording around the need for suppliers to operate an agency line, and consideration of setting minimum requirements for such services, would represent progress. Similarly, in a recent Ofgem consumer groups and charities call, an organisation in the debt advice sector advised that suppliers had refused to allow them to represent a customer, as they were not from the supplier’s preferred advice body. It is essential that Domestic Consumers in Vulnerable Situations are allowed to choose who advocates on their behalf, and that this wish is respected by suppliers.

SLC 31G.3A states that:

The licensees’ enquiry service must (a) Offer a range of contact methods that meet the needs of the licensee’s Domestic Customers, including those of its Domestic Customers in Vulnerable Situations.

Consumers have varying needs and communication preferences, and it is appropriate that this is reflected in suppliers’ customer service offerings. Consumer Scotland would like to see suppliers encouraged, potentially through reputational incentives, to achieve a recognised standard in customer service, such as BSI ISO 22458:2022.⁷

Further comments are provided in our response to Question 2, including considerations relating to appropriate digital channels, the use of artificial intelligence, and best practice on telephone services.

SLC 31G.3C requires that:

When providing the enquiry service, the licensee must implement appropriate processes to identify and provide the enquiry service free of charge to Domestic Customers in Vulnerable Situations who, due to their circumstances or characteristics, are likely to experience detriment if there is a cost to the enquiry service.

Consumer Scotland welcomed moves to formally recognise the needs of those experiencing financial vulnerability in the Involuntary PPM Code of Practice,⁸ and, if effectively enforced, SLC31G.3C should serve to further enhance protections for households in those circumstances by preventing further costs being accrued through use of their supplier's enquiry service. As aforementioned, given its transient nature and the limitations of self-identification, identifying vulnerability amongst a customer base can be challenging. In the draft contact ease guidance, Ofgem advises that "we currently consider best practice is for suppliers to offer a free phone to all Domestic Customers, including those that are digitally excluded". We would agree that a universal approach is likely to be the most straightforward way to ensure coverage for all Domestic Customers in Vulnerable Situations.

SLC 31G.3A b) states that:

The licensees' enquiry service must be available to receive enquiries and offer assistance, guidance, or advice at times that meet the needs of Domestic Customers, including those of Domestic Customers in Vulnerable Situations.

SLC 31G.3A b), and 1.21 to 1.28 of the contact ease guidance, outlines Ofgem's expectations on suppliers in terms of the opening hours of their enquiry services. Whilst these seem appropriate, we would suggest that the quantum of available advice, and not just opening hours, is key to the effective operation of an enquiry service. Under the proposed requirement, it is possible that suppliers could meet their individual metrics, but still deliver a sub-optimal service to consumers. Consumer Scotland would therefore like to see a move towards outcomes-based compliance, to ensure that the various requirements on suppliers in relation to their enquiry service are combining to deliver positive outcomes for consumers.

Question 2. Do you have any comments or views on our proposed contact ease guidance document? We would welcome evidence of ways in which suppliers are already delivering best practice.

As a cross-market consumer advocacy body, Consumer Scotland has drawn upon our expertise across different markets and services to review the proposed contact ease guidance, making

comparisons, and learning from, customer service policy in different policy areas. Based on this analysis, we offer the following comments on the draft guidance:

Supplier compliance and further regulatory considerations:

- There is a need for the guidance to offer a clear framework for what an overall positive experience looks and feels like for a consumer. For example, if a lengthy triage system is applied by a supplier in order to help meet specific call answer or call waiting times then this is unlikely to be in keeping with the spirit of the guidance, in terms of an improved consumer experience. More information from Ofgem about what metrics will be monitored as 'business as usual' would be helpful in understanding the requirements on suppliers and the subsequent experience of consumers.
- Suppliers could monitor the following types of data to ensure that they are delivering an improved experience for consumers: root-cause analysis of complaints, call abandon rates, first contact resolution rates and average resolution times, speed to answer calls and average wait times, email and digital channel speed to answer, internal quality assurance, customer call listening exercises, satisfaction surveys.
- The guidance around minimum offline/online standards represents a positive step. However, we have some concern that as currently drafted, the guidance does not say enough about the appropriateness or qualities of different contact channels. For example, a digital channel is required, but if, for example, this channel was to be provided via a social media platform, then it is unlikely that this would represent a suitable path for all consumers. The requirement here could therefore benefit from being more clearly defined.
- An example of good practice that Ofgem should consider citing in the guidance is the provision of estimated wait time messages whilst in a call queue, with these messages being regularly updated to ensure accuracy. The option of consumers receiving a call back is another good practice example, particularly if a clear indication is given on the timeframe for this call back, and if it is subsequently met.
- There was agreement that the use of artificial intelligence needs careful framing. Whilst it could have a role in active listening, it will not be suitable for all enquiries. Chatbots for example can be limited in terms of customer interaction, with preprogrammed questions and answers not always responding appropriately to customer needs.

Balancing principles-based and prescriptive approaches:

- There is a balance to be struck between principles-based and prescriptive approaches in the guidance.
- The guidance should be a tool that encourages suppliers to continually adopt a more proactive approach to improving consumers' contact experience. While it is important that suppliers achieve certain metrics with regards to delivering a positive consumer experience, the pursuit of these metrics should not inhibit or distract suppliers from proactively taking wider and/or deeper action in a multitude of ways to improve the contact experience. This may include, for example, proactive communications to prevent unnecessary or misdirected enquiries, and to inform and encourage consumers on how and when to make contact.

- There is a risk that suppliers can more easily ‘game’ the system when requirements are overly rules-based. For example, there is a risk of creating perverse incentives to terminate customer calls as they approach the upper call waiting time limit if there is insufficient mechanisms and measures for tracking voided or repeat calls.
- Examples of good and bad practice, including from other sectors, might be useful to suppliers in helping visualise opportunities. The balance between ethical business regulation and ethical business practice⁹ in the water industry in Scotland is one such example, as is the Financial Conduct Authority’s recently implemented Consumer Duty.¹⁰

Learnings from previous stress events:

- A useful example noted is how distribution network operators (DNOs) prioritise customer contacts for those on the Priority Services Register (PSR). Ofgem is not prescriptive on this, so there are a variety of different approaches. Some DNOs are able to recognise phone numbers and email addresses and direct the customer either to a priority team, or to the front of the general queue. Others use dedicated contact numbers or channels for these consumers.
- Ofgem’s final report into the networks’ response to Storm Arwen highlights a variance in customer service performance when dealing with increased demand: “DNOs are incentivised to minimise the number of calls that are ‘unsuccessful’ and a call is deemed unsuccessful if the customer has requested a call back, but the time taken to make that call back is greater than 60 minutes. During the storm [one DNO] switched off their call back function, whilst [other DNOs] kept this function available, despite receiving higher call volumes. We think it is vital that DNOs do not put their own commercial interests ahead of customers’ needs in emergency situations.”
- In the supply industry, ‘meter reading day’ prior to the October 2022 price cap increase identified concerns about capacity and preparedness ahead of a predictable stress event.¹¹
- There may be a case for suppliers to undertake some form of winter preparedness communications to customers, particularly to those on the PSR and prepayment meters as a minimum requirement, including information about how and when to make contact with their supplier.

Question 3. Do you have any comment or questions on our proposed licence changes to better support customers struggling with their bills?

SLC 27.5B requires that:

In complying with 27.5 the licensee must take proactive contact with Domestic Customers at the earliest opportunity to identify whether a customer is in payment difficulty, by contacting the Domestic Customer no later than after:

- 1. two missed monthly scheduled payments;**
- 2. one missed quarterly scheduled payment; or**
- 3. a customer has informed the licensee that they are unable to make the next scheduled payment.**

As aforementioned in our comments on the proposed SLC 31G.3B, Consumer Scotland supports enhanced monitoring of customer payment behaviours where this information is used to enable proactive contact by the supplier, which could prevent payment difficulties becoming exacerbated. The trigger points of missing two monthly payments, or one quarterly payment, seem appropriate in terms of setting a standard, and this should allow for straightforward compliance monitoring. However, suppliers should be innovative in their approach to protecting consumers, such as using other indicators of financial vulnerability that they may have at their disposal.

SLC 27.8A states that:

For the purposes of ascertaining a Domestic Customer's ability to pay as set out in paragraph 27.8, the licensee must give due consideration to:

- b) Making proactive contact with customers, which includes:
 - i. Making early contact to identify whether a customer is in payment difficulty **as set out in 27.5b**;
 - ii. Regularly reviewing methods of proactive contact to ensure they meet the needs of customers, **in particular in circumstances where the licensee has not made successful contact with the customer**;
- d) Setting repayment rates based on ability to pay which includes:
 - iv. **Pausing scheduled repayments for an appropriate period of time as part of the customer's repayment plan and reviewing a customer's ability to pay at regular intervals before re-instating scheduled repayments as part of the customer's repayment plan.**

Consumer Scotland welcomes the proposed inclusion of pausing scheduled repayments in the licence. Tackling energy debt is extremely challenging, so it is vital that both consumers and suppliers have a suite of options available to them. Pauses, or 'repayment holidays', could be transformative in instances of short-term financial pressure – in acting as a circuit breaker – to allow a consumer some financial breathing space, and to begin repayments again at a more suitable time. It will be important however to use these pauses strategically, as the risk of over-use, or pausing for too long, could result in substantial additional debt accrual. Suppliers will need to be mindful of this balance when considering suitability of a pause.

Question 4. Do you have any comments or questions on our proposed licence changes to require suppliers to publish information on their customer service performance, as measured by Citizens Advice?

SLC 31G.3D states that:

The licensee must publish information about the licensee's customer service performance as measured by the Citizens Advice star rating, at a prominent location, in a format that is readily accessible and that meets the needs of Domestic Customers including those of Domestic Customers in Vulnerable Situations.

Transparency is a central component of ethical business practices that Consumer Scotland has suggested could provide key learnings for the energy supply industry. The requirements under SLC 31G.3D feel like a welcome step in that direction, and could be especially useful for consumers, in terms of improving choice,¹² as and when competition returns to the market.

Question 5. Could you provide any further, detailed evidence on the potential costs and benefits of our revised proposals?

On this point, Consumer Scotland wishes to reiterate two points from our response to the consumer standards framework consultation:

1. Although the consumer standards workstream includes new requirements on suppliers, the essence of what is expected of suppliers in terms of providing effective customer services has not changed. As the efficient costs of delivering these services is already accounted for in the price cap methodology, no further cost allowances relating to this should be considered.
2. There can be substantial impacts on the advice sector, in the form of increased contacts about straightforward issues, when consumers cannot get through to suppliers. In such instances, it can be argued that the advice sector is subsidising the supply industry, by stepping in to help meet its requirements. The unaccounted costs of this should be considered when suppliers fail to meet customer service targets, and policymakers more broadly should look to provide additional support to the advice sector at times when market conditions are likely to result in increased demand.

Question 6. Could you provide detailed evidence on information on the proposed timescales for implementation of our revised proposals?

We understand that Ofgem intends to publish a decision on any licence changes by early October 2023 and for any licence changes to go live in December 2023. If this timescale adhered to, it will mean that consumers will be able to benefit from the changes from early-mid winter onwards. To ensure that the changes have their desired impact for the remainder of winter, and into spring, suppliers will therefore need to be primed to immediately enact these changes. The new contact ease guidance should help with this, and Ofgem may wish to consider engagement sessions or similar with the sector, in the run-up to the go live date, to ensure suppliers hit the ground running.

¹ [Consumer Spotlight on Energy 3 | Consumer Scotland](#)

² [Scottish Energy Insights Coordination Group Report | Consumer Scotland](#)

³ Advice and advocacy bodies providing energy services, including statutory bodies, charities and community groups

⁴ [Response to Ofgem's Consumer Standards Framework | Consumer Scotland](#)

⁵ Wording from Consumer Standards roundtable slides circulated by Ofgem on 10 August 2023

⁶ [The Commission for Customers in Vulnerable Circumstances Final Report 2019 - Energy UK \(energy-uk.org.uk\)](#)

⁷ British Standards Institute, International Standard on Consumer Vulnerability – requirements and guidelines for the design and delivery of inclusive service

⁸ [Involuntary PPM - Supplier Code of Practice | Ofgem](#)

⁹ [Market review - Ethical Business Practice | WICS](#)

¹⁰ [FG22/5: Final non-Handbook Guidance for firms on the Consumer Duty \(fca.org.uk\)](#)

¹¹ [Energy websites crash and force customers to queue in 'Meter Reading Day' rush | UK News | Metro News](#)

¹² [cas_cfu_booklet_on_consumer_principles.pdf](#)