



Ofcom Consultation: Treating Vulnerable Customers Fairly Guide – proposals to amend the guide to help ensure customers in debt or struggling to pay are treated fairly

THE CONSUMER COUNCIL RESPONSE

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1. EXECUTIVE SUMMARY

The Consumer Council welcomes the opportunity to provide comment on Ofcom's proposed amendments to the [Treating Vulnerable Customers Fairly Guide](#).

We provided several recommendations in our initial response¹ to Ofcom's '[Call for inputs on measures to protect customers in debt or at risk of disconnection](#)'. In this response our overarching view was that a move to a regulatory rules-based approach would better protect consumers struggling to pay their communication bills and at risk of debt or disconnection when taking into account the cost of living crisis. We understand that Ofcom has decided to retain its voluntary guide approach to ensure vulnerable consumers in debt are treated fairly by communication providers.

Our detailed response is found in section 3. In summary we would like Ofcom to consider the following points before finalising the 'Treating Vulnerable Customers Fairly Guide':

- Consider strengthening and improving upon the existing regulatory approach now. This would ensure Ofcom is equipped to proactively protect vulnerable consumers experiencing financial distress in what are believed to be challenging years ahead.
- Ensure there is greater consistency in the approach taken by all providers across the communication sector to allow consumers to receive the same level of care and protection from detriment.
- Provide details of monitoring activity, including timeframes, success indicators and whether an overarching review of the best practice guide will be carried out in the future. This proactive monitoring will be key to ensuring the guide delivers for vulnerable consumers.
- Require providers to allow consumers to deal with them by the communication method they are most comfortable with and that consumers find least stressful.
- Require that providers must be able to provide consumers with information about free debt organisations available in the UK nation in which they reside.
- Oblige providers to keep detailed records of engagements and how they have checked for vulnerability.
- We agree it is important that providers do more to raise awareness of social tariffs to ensure that more eligible people may benefit from them.

We welcome the opportunity to further engage with Ofcom to ensure consumers struggling to pay their communication bills or at the risk of debt or disconnection remain protected.

¹ [Consumer Council for Northern Ireland \(ofcom.org.uk\)](#)

2. ABOUT US

The Consumer Council was established in April 1985 as a non-departmental public body (NDPB) under the General Consumer Council (Northern Ireland) Order 1984 (The Order). We operate under the Department for the Economy (DfE) on behalf of the Northern Ireland Executive.

Our vision is to protect and empower consumers in Northern Ireland by ensuring the legislation and regulation for consumer protection works effectively for consumers here.

Our mission is to be the trusted go-to organisation for Northern Ireland consumers, working with governments and stakeholders to inform policy and decision making, using our research, insight and expertise to deliver positive outcomes for consumers.

We have statutory duties in relation to consumer affairs, energy, postal services, transport, water and sewerage, and food accessibility. These include responding to enquiries, investigating complaints, carrying out independent research, educating and empowering consumers, and advising government on matters relating to consumer affairs.

Our interpretation of The Order gives us powers to tackle financial exclusion by working across all Northern Ireland Executive Departments, UK Government including HM Treasury and the Department for Business, Energy and Industrial Strategy (BEIS), and regulators to influence policy and empower consumers through education and increased awareness.

Our non-statutory functions educate and empower consumers against unfair or discriminatory practices in any market including financial services. We are also a designated super-complaints body under the Enterprise Act 2002 and the Financial Services and Markets Act 2013.

As an insight-led evidence based organisation, we:

- Provide consumers with expert advice and confidential guidance.
- Engage with government, regulators and consumer bodies to influence public policy.
- Empower consumers with the information and tools to build confidence and knowledge.
- Investigate and resolve consumer complaints under statutory and non-statutory functions.
- Undertake best practice research to identify and quantify emerging risks to consumers.
- Campaign for market reform as an advocate for consumer choice and protection.

We have responsibilities under the Rural Needs Act 2016 and Section 75 of the Northern Ireland Act 1998 to ensure government policies recognise consumer needs in rural areas, and promote equality of opportunity and good relations across a range of equality categories.

We represent and campaign on behalf of all Northern Ireland citizens, in particular those in vulnerable circumstances, and pay particular regard to consumers:

- who are disabled or have long term health conditions
- who are of pensionable age

- who are on low incomes
- who live in rural areas.

We use a set of eight guiding principles developed by the United Nations to assess where the consumer interest lies, and develop and communicate our policies, interventions and support. These provide an agreed framework through which we approach regulatory and policy work.

Figure 1: Consumer Principles



The principles ensure we apply a consistent approach across our statutory and non-statutory functions, and in all our engagement with consumers and stakeholders.

They serve to protect consumers, setting out the minimum standards expected from markets when delivering products or services in Northern Ireland. They also frame our policy position and approach to resolving consumer disputes with industry, offering a straightforward checklist to analyse and validate outcomes, in particular among vulnerable groups.

3. RESPONSE TO CONSULTATION

The Consumer Council welcomes the opportunity to provide comment on Ofcom's proposed amendments to the [Treating Vulnerable Customers Fairly Guide](#). We were pleased to see Ofcom had considered in detail the views of stakeholders in its proposed amendments. We believe these amendments will help improve outcomes for consumers in debt or those struggling to pay.

Communication services are now viewed by many Northern Ireland consumers as an essential service which underlines the need to support financially vulnerable consumers in the communication market. We believe consumers should expect to be fully supported when they are experiencing financial distress.

The Consumer Council provided several recommendations in our initial response² to Ofcom's '[Call for inputs on measures to protect customers in debt or at risk of disconnection](#)'. We note our overarching proposal, which would have strengthened protection for consumers will not be implemented. We believe a move to a regulatory rules-based approach would better protect consumers struggling pay their communication bills and at the risk of debt or disconnection when taking into account of the cost of living crisis.

We understand that Ofcom has decided to retain its voluntary guide approach to ensure vulnerable consumers in debt or struggling to pay bills are treated fairly by communication providers. We remain concerned that this approach exposes vulnerable consumers to a significant risk of harm. To illustrate this, our recent Consumer Insight survey shows that 87% of consumers across Northern Ireland are worried about the cost of living³.

Before Ofcom finalises its 'Treating Vulnerable Customers Fairly Guide' we would like the following comments to be taken into consideration.

The value and status of Ofcom's guide and the potential for further regulation

Since our initial response in September 2021 consumer prices have increased by record levels particularly in food and fuel sectors. The Bank of England has warned that inflation which reached 7% in March 2022 could reach 10% by autumn 2022.⁴ Prices for products other than food went up by 2.2% in the year to April which was the highest increase since records began in 2002⁵. This has increased the cost of living substantially, squeezing household budgets and putting consumers at even more risk of experiencing financial distress.

In our response we had asked Ofcom to consider strengthening regulation on debt and disconnection rather than relying on a non-enforceable guide. We provided evidence that with the current economic climate it is likely that consumers will struggle with bills including communication bills. We believe that new regulation using a rules-based approach would have better protected consumers regardless of their provider.

² [Consumer Council for Northern Ireland \(ofcom.org.uk\)](#)

³ The Consumer Council. Consumer Insight Survey 2022. April 2022.

⁴ [How high will inflation go? | Bank of England](#)

⁵ [Buy 'value brands', cabinet minister says, as shop prices increase at fastest rate in more than a decade | Business News | Sky News](#)

With the immediate cost of living crisis, we still consider this to be the opportune time for Ofcom to consider strengthening and improving upon the existing regulatory approach. We appreciate that the best practice guide if successfully adopted by providers should improve outcomes for vulnerable consumers. However, by further developing a regulatory framework now, it would ensure Ofcom is equipped to proactively protect vulnerable consumers experiencing financial distress in what are believed to be challenging years ahead.

Of further concern, paragraph 3.18 states that depending on the size and nature of the provider they may choose to adopt only some best practice recommendations. Although we realise some providers may already be going beyond the minimum requirements, we believe there is a need for greater consistency in the approach taken by all providers across the communication sector. This would ensure consumers receive the same level of care and protection from detriment. It would also set a minimum standard.

We note that Ofcom will continue to monitor provider practices relating to customers in debt and that the existence of the guide does not preclude the possibility of formal regulatory action in the future. This monitoring activity will be key to ensure that there can be quick intervention if the implementation of the best practice guide does not deliver successful outcomes for vulnerable consumers. Further details of this monitoring activity, including timeframes, success indicators and whether an overarching review of the best practice guide will be carried out in the future would increase our support of a non-regulation approach. We suggest Ofcom publishes this information as part of its final decision document and that it develops a robust consumer outcome measuring matrix for each nation of the UK to ensure there is swift intervention to address any issues.

Identification, engagement and communication with customers in debt or struggling to pay

We are encouraged by Ofcom's proposed amendments for providers to emphasise the support available when directly communicating with customers in debt and to rotate between communications channels when contacting a customer in debt. We believe these measures will support early intervention that benefits consumers. Consumers must have trust that their provider will provide adequate support.

In our previous response we raised concerns surrounding the findings that some providers do not allow consumers in debt to deal with them by letter, email or web chat. We suggested that a consumer protection measure should be implemented to address this finding by requiring providers to allow consumers to deal with providers in the way they are most comfortable with.

Paragraph 3.43 states that the section in the current guide to 'offer a wide range of communication channels' provides a proportionate approach which strikes the balance between setting out best practice while avoiding being overly prescriptive. We still believe providers should allow consumers to deal with providers by the method they are most comfortable with and that consumers find least stressful. The focus must be on effective interventions that improve consumer outcomes and reduce detriment. We would ask Ofcom to reconsider this point and amend the wording in its guide to make it clear that providers should allow consumers to deal with providers by the method they are most comfortable with rather than take account of the preferred communication channel.

We welcome the positive response to joint work between industry and Ofcom to test the effectiveness of debt support communications. This is important and we would be interested in the findings and outcomes of this work.

Strengthening links with organisations and charities that can provide free debt advice and support

We believe it is vital that consumers are aware of the options to receive free and impartial debt advice. Therefore, we are pleased to see Ofcom proposes to amend the guide to emphasise that providers should help customers by giving them information about free debt advice organisations. We once again reiterate however that this should not absolve providers from providing support information and the amendments to the guide should make this clear to providers so there can be no misinterpretation.

We note in paragraph 3.58 that it is considered impractical for providers to be able to provide consumers with information about free debt organisations in the UK nation in which they live and instead calls for operators to state that not all free debt advice organisations work in all nations. We feel that this does not go far enough and believe that there should be an expectation that providers make sure they are aware of suitable advice bodies in all of the markets they service. This will ensure consumers have a clear and easy to navigate pathway to designated advice bodies in their respective nation. We ask Ofcom to reconsider its position on this matter and ensure clarity of signposting by providers.

Measures taken by providers to effect payment

We maintain our view that providers' efforts must focus on early intervention and support. We support measures that prevent providers from imposing service restrictions, waive any late payment penalty charges or early termination charges, limit debt collection activity and remove the threat of disconnection.

In our original response we considered the impact of debt agencies on vulnerable consumers and proposed that debt collection agencies should be FCA compliant. We appreciate that Ofcom considered and responded to this request. While we agree with the overarching proposal (3.108) that providers should use debt collection agencies with strong policies for treating vulnerable customers fairly. We recommend Ofcom goes further and requires providers to use only debt collection agencies that meet the high standards set by other regulatory bodies such as the FCA. To provide consumers with the most protection we believe Ofcom should monitor and intervene when necessary and hold providers accountable for the debt collection agencies they employ.

We are pleased to see that Ofcom is proposing to remove the suggestion about avoiding disconnection for a minimum of three months after taking on board the views of stakeholders, recognising the risks that citing a specific timeframe may cause. We still believe there is opportunity for further research in this area and adequate protections must be in place to ensure consumers don't risk running up unmanageable debt.

In our response we raised concerns about the ambiguity regarding how 'actively engaging' with providers is defined and what steps providers must take before imposing sanctions. We still believe that further, clearer guidance could be implemented. Although we appreciate the General Conditions already place some requirements in relation to record keeping, we feel that it is appropriate to oblige providers to keep detailed records of engagements and how they checked for vulnerability. This aspect would help Ofcom monitor how/if the providers are taking appropriate engagement steps, increasing transparency and accountability within the communication sector.

Measures designed by providers to support customers who are in debt or struggling to pay

We support a focus on ensuring consumers have easy access to skilled and empathic staff who can assist in reaching debt solutions that are tailored to individuals' needs. We are pleased to see this is already reflected in the guide.

We believe providers must explore all supportive options with consumers. This includes proactively exploring downgrading to cheaper tariffs or moving consumers to social tariffs. Our initial view was that social tariffs should be made available by all communication providers as one way to help those that are struggling with their bills. Although we appreciate Ofcom is currently unable to make social tariffs a regulatory requirement, we are pleased it will continue to urge providers to offer a social tariff to ensure eligible customers can access the internet if they encounter affordability issues and proposes to amend its guide to reflect that offering a social tariff represents best practice.

We also agree it is important that providers do more to raise awareness of social tariffs to ensure that more eligible people may benefit from them. In regard to the comments 'providers of social tariffs should work with consumer bodies and charities, who are likely to engage with people facing affordability problems, to promote the availability of social tariffs. We propose to amend our guide to reflect this', we are happy to work alongside others in promoting the availability of social tariffs to vulnerable consumers.

4. CONCLUSION

The Consumer Council believes that a number of Ofcom's proposed amendments to the Treating Vulnerable Customers Fairly Guide will help produce more effective and efficient interventions that reduce the risk of consumer harm. In our response we have provided further comments which we hope Ofcom will consider before finalising the guide.

However, in the absence of more specific rules-based regulation, we stress that there must be ongoing active monitoring to ensure that the best practice guide is meeting its aims and objectives in protecting vulnerable customers. This monitoring activity should be planned in advance and shared with relevant stakeholders. The current economic climate is putting consumers at even more risk of experiencing financial distress and Ofcom must be able to quickly implement interventions such as strengthening regulation on debt and disconnection if the adoption of the best practice guide fails to sufficiently protect consumers.

5. CONTACT INFORMATION

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The Consumer Council consents to this response being published.