



## **The Consumer Council for Northern Ireland response to Ofcom's Treating Vulnerable Consumers Fairly Consultation**

### **The Consumer Council**

1. The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.
2. Whilst our statutory duties highlight four areas that we must pay particular regard to (consumers who are disabled or chronically sick; of pensionable age; with low incomes; or who reside in rural areas), we recognise that consumer vulnerability is transient and that the characteristics and drivers of vulnerability are often complex and dynamic in nature. Much of our work focuses on consumer vulnerability and ensuring consumers in vulnerable circumstances are treated fairly and at the forefront of policy development.
3. In our response to Ofcom's consultation on its fairness framework, we recommended that Ofcom provide guidance to communications providers on how they can identify consumers in vulnerable circumstances and provide additional assistance. We are pleased that Ofcom is now consulting on a proposed guide for providers on treating vulnerable consumers fairly and welcome the opportunity to respond.

### **Consumer Principles**

4. The Consumer Council, like many consumer and regulatory organisations, uses a set of eight core principles (Figure 1). The principles provide a framework for working out how particular issues or policies are likely to affect consumers, help identify key issues and risks, ask questions into consumer issues about service design and delivery, consumer impact and how services should look and feel to the consumer. The Consumer Council believes that the consumer principles framework can also underpin Ofcom's guidance for providers.

Figure 1: Consumer Principles



5. Affordability considerations also run throughout our principled consideration of consumer issues.
6. We view a deficiency in any of these eight principles or affordability, whatever its cause, as a potential source of vulnerability, a potential that may crystallise into detriment and consumer harm.

**Consumer Context**

7. Socio economic indicators show that Northern Ireland is a more vulnerable society than the rest of the UK. Consumers in Northern Ireland are poorer, having around half the discretionary weekly spend as GB households, £113 compared to £213 UK average<sup>1</sup>. They are less financially resilient with lower financial capability, savings and wages (see Table 1).

Table 1. Northern Ireland, A More Vulnerable Society

Issue	NI	UK	Difference	Source
Disability claimants (DLA or PIP)	11.6%	5.7%	+103%	Calculated using DFC ONS and NISRA Statistics published in 2019
No cash savings or savings under £5,000	67%	57%	+18%	FCA 2017 – Financial Lives Survey (published 2018)
No cash savings	16%	13%	+23%	FCA 2017 – Financial Lives Survey

<sup>1</sup> July 2019 Asda income tracker. [https://corporate.asda.com/media-library/document/asda-income-tracker-presentation-july-2019/\\_proxyDocument?id=0000016c-28d3-d61b-a16d-badbd7b30001](https://corporate.asda.com/media-library/document/asda-income-tracker-presentation-july-2019/_proxyDocument?id=0000016c-28d3-d61b-a16d-badbd7b30001)

Over-indebtedness	20%	15%	+33%	FCA 2017 – Financial Lives Survey
Low understanding of financial issues	24%	17%	+41%	FCA 2017 – Financial Lives Survey
High confidence in managing money	26%	37%	-30%	FCA 2017 – Financial Lives Survey
Adults with low financial capability	24%	17%	+41%	FCA 2017 – Financial Lives Survey
People with no account (excluding post office card account)	6%	3%	+50%	Family Resource Survey 2017/2018
Average Debt (for those with debts)	£10,730	£9,570	+12%	FCA 2017 – Financial Lives Survey
Economically Inactive	25.8%	20.8%	+24%	NOMIS May – July 2019
Discretionary income	£113	£213	-47%	Asda Income Tracker July 2019

8. This position is echoed in The Consumer Council's own Consumer Insight research<sup>2</sup>, which shows that half of Northern Ireland adults have £300 or less to spend after essential outgoings each month, with this figure significantly higher for C2DEs (59%), those not working (62%), those with an income of <£20,000 (68%), renters (69%) and those with a disability (62%).
9. The Money and Pension Service listening document<sup>3</sup> lists key aspects of financial capability measured in 2018. Of the 12 areas measured, Northern Ireland is listed as the worst performer for 11 indicators. Figure 2 highlights these:

<sup>2</sup> Source: The Consumer Council Consumer Insight Survey, February 2019.

<sup>3</sup> <https://maps.org.uk/wp-content/uploads/2019/04/Listening-Document.pdf>

**Figure 2: Key aspects of financial capability**

The table below shows some of the key aspects of financial capability measured in the 2018 UK-wide survey. Green and yellow show where people in a devolved nation show a variation from the UK average that is at or more than 5%. Rows in grey show where populations across the different nations are very close to showing the same characteristics.

	UK	Scotland	Wales	NI
<b>Day-to-day money management</b>				
Rarely or never save.	21%	20%	24%	24%
Have less than £100 in savings and investments.	22%	26%	27%	28%
Often use a credit card, overdraft or borrow money to buy food or pay bills because they have run short of money.	17%	15%	14%	11%
<b>Over-indebtedness</b>				
Are over-indebted	17%	14%	16%	16%
<b>Planning ahead</b>				
Could last three months or more without borrowing if they lose their main source of income.	49%	53%	51%	49%
Have a plan for financial goals for the next five years.	53%	48%	48%	47%
Do not feel that they understand enough about pensions to make decisions about saving for retirement. (18-64 only)	55%	54%	57%	61%
Are not engaged with how they would manage financially if they need to go into long-term residential care. (65+ only)	43%	40%	33%	48%
<b>Accessing information, guidance and advice</b>				
Know of organisations and websites that can offer free or affordable financial information, help and support.	58%	59%	56%	58%
Did not seek financial help or support for life-events or situations experienced in the last 12 months (working-age only)	59%	61%	58%	65%
Have used the internet for online or mobile banking	69%	66%	67%	63%
<b>Confidence</b>				
Do not feel confident making decisions about financial products and services.	47%	46%	51%	51%
<b>Sense of control</b>				
Do not feel they can determine what happens in their lives when it comes to money.	63%	64%	67%	71%
Do not focus on the long term when it comes to money	61%	66%	62%	67%

Note: because England comprises the vast majority of the UK population, the UK average and the results for England are almost always identical.

### Telecoms in Northern Ireland

10. All consumers have a right to be treated fairly by their service providers. However, there are aspects of the market that are not working for consumers. In December 2018, the Competition and Markets Authority (CMA) published its response to Citizens Advice’s Supercomplaint on the loyalty penalty. It found that broadband consumers are being penalised £990m per year for being loyal customers. Ofcom found that of the 8.8 million broadband customers who are out of contract, provider data indicates that 1.5 million are vulnerable, which represents 43% of all

vulnerable customers<sup>4</sup>. Ofcom also found that out of contract mobile phone customers on bundled contracts are overpaying by £182m per year<sup>5</sup>. Problems with the market have a greater impact on consumers in vulnerable circumstances who are more at risk of paying the loyalty penalty and may be least able to afford it.

11. Northern Ireland consumers are less agile and resilient to deal with price fluctuations than the average UK consumer. Any increase in price reduces consumers' disposable income. Even if relatively small, the impact has the potential to be severe.
12. Affordability issues for communications services are already more keenly felt in Northern Ireland than the UK as a whole. 12% of those responsible for paying their household's communication services say they have experienced difficulties paying for services in the past year, compared to 9% in the UK as a whole<sup>6</sup>. While statistics are not available specifically for Northern Ireland, 35% of those with a long-term mental illness across the UK are also significantly more likely to say they have experienced difficulties in the past year<sup>7</sup>. Generally, Northern Ireland has a 25% higher overall prevalence of mental health problems than England<sup>8</sup>.
13. As people are becoming more digitally connected, consumers need and demand faster and more reliable connections. However, connectivity in Northern Ireland does not compare favourably to the UK. For example, we still have the highest proportion of premises unable to access decent broadband connections<sup>9</sup>. 5% of premises are affected in Northern Ireland, compared to just 2% in the UK. This is more common in rural areas, with 17% of premises affected in Northern Ireland compared to 12% in the UK<sup>10</sup>. In addition, ultrafast broadband is available to over half of UK properties (53%) but only 45% of properties in Northern Ireland<sup>11</sup>. Consumers rely on telecoms services more so than ever before to the extent that it is now considered an essential service. However, with many consumers still experiencing connectivity issues, either with broadband or mobile services (or both), the impact can be felt in their daily interactions and could ultimately lead to social isolation. That is why it is important that providers embed within their organisations a culture of fairness for consumers in vulnerable circumstances.
14. In border regions of Northern Ireland, there is always a strong prospect that a consumer will roam onto a stronger signal from the Republic of Ireland. Recent research shows that mobile and broadband costs are a big concern for Northern Ireland consumers should we leave the EU. Research undertaken by Which? found that the percentage of people who are worried about both mobile roaming charges and Brexit is higher in Northern Ireland than the national average<sup>12</sup>. Its Brexit tracker found that 34% thought that the impact of Brexit on the price of mobile phones

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<sup>4</sup> Ofcom *Fairer prices for broadband customers* – 25 September 2019

<sup>5</sup> Ofcom *Helping Consumers to get better deals in communications market: mobile handsets statement* – July 2019

<sup>6</sup> Ofcom *Access and Inclusion in 2018*: Interactive data <https://www.ofcom.org.uk/research-and-data/multi-sector-research/accessibility-research/access-and-inclusion/2018-interactive-data>

<sup>7</sup> Ofcom *Access and Inclusion in 2018 Report*

<sup>8</sup> Mental Health Foundation's *Fundamental Facts for Northern Ireland*, October 2016.

<sup>9</sup> Decent broadband is recognised as having download speeds of at least 10 mbps and an upload speed of 1 mbps

<sup>10</sup> Ofcom *Connected Nations Report 2018*

<sup>11</sup> Ofcom *Connected Nations Update: Spring 2019*

<sup>12</sup> Which? Consumer Insight Survey <https://consumerinsight.which.co.uk/constituency/northern-ireland/worry>

would be negative for their household compared to just 27% in GB. For broadband, this was 26% in Northern Ireland compared to 22% in GB<sup>13</sup>.

### **General Comments on Guide**

15. The Consumer Council welcomes the publication of the guidance for communications providers on how to treat their vulnerable customers fairly. Whilst the proposed guide is comprehensive and detailed, we have made some recommendations below. It is important that the right help is given to the right people at the right time. Vulnerability can require long running support or it can be transient and, as such, it can be difficult for communications providers to identify all consumers in vulnerable circumstances, particularly as some consumers may not identify or consider themselves as vulnerable. That is why it is so important that providers not only develop policies but embed within their organisation a culture of support, assistance and fair treatment for those consumers.

### **Publication of Guide**

16. We note Ofcom's view that publishing a guide, rather than a new formal regulation, is an appropriate and proportionate way forward, giving providers flexibility in how they comply in this area. We note that Ofcom will still take formal regulatory action, where necessary.

17. We appreciate that the purpose of the guide is to help providers comply with the existing General Conditions of Entitlement (the Conditions) C5.1 to C5.5 ensuring providers have the right policies and procedures to treat vulnerable customers fairly. We also acknowledge, like Ofcom, that providers' practices are dynamic and evolving and that practices may change over time to keep pace with industry developments. We welcome Ofcom's assertion that it will do the same, reviewing the guide "from time to time".

18. While we accept the argument that the detail should not be formalised in a new regulation, we believe that the Conditions should be amended to require providers *to implement the measures described in the latest published guide*. We believe the benefits of this are as follows:

- It will ensure that all consumers in vulnerable circumstances are treated equitably and fairly, regardless of who their communication provider is.
- It will provide certainty and clarity for communications providers in terms of their regulatory obligations, particularly considering that Ofcom will take into account whether a provider has adopted any of the measures when assessing compliance with the Conditions C5.1 to C5.5.
- The measures will, de facto, become core minimum standards, (that should not be diminished in any final version); however flexibility for additionality and innovation by providers will be retained, allowing the development of specific solutions prompted by their understanding of vulnerability and affordability issues for their customer base. Providers may also be incentivised for reputational or competitive gain, through

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<sup>13</sup> The Which? Brexit tracker survey

innovating and developing additional solutions and fairer treatment of their vulnerable customers.

- It will allow the guidance to be reviewed periodically by Ofcom, without having to amend the General Conditions each time. This will allow for swift updates and changes given the technological and dynamic developments in the sector.

19. We also recommend that Ofcom sets a timeframe within which it will review the guide, for example no later than every 12 months.

### **Suggested Measures in Guidance**

20. In relation to the suggested measures, as set out in the guidance, we have the following comments to make.

#### *Establishing and publishing policies*

21. It is important that firms establish and publish their policies and procedures, reflecting their approach to vulnerability and affordability.

22. We believe that it is important that company culture should include senior or board level responsibility for implementing and reporting on vulnerability and affordability measures. Larger firms could appoint vulnerability champions or teams to offer support to complex cases and offer support to frontline staff. We are pleased that Ofcom has reflected the importance of proactive senior engagement in the guidance.

23. We welcome Ofcom's expectation that providers take an inclusive approach to who may be considered vulnerable, taking into account the different types of vulnerabilities that their customer base has and using this to inform their policies and practices. We welcome Ofcom's recognition of the transient nature of vulnerability and the need for providers to understand and provide the right support and assistance at the right time. However, providers must also understand that their policies and procedures could lead to a consumer becoming vulnerable, for example upselling products that the consumer cannot avail of but which may lead to affordability issues. It is important, therefore, that policies take account of this and include preventative measures.

24. We believe that Ofcom and providers should use co-design and co-production methods as important tools to improve the understanding of need and develop service solutions. Using these approaches and hearing first hand of consumers experiences will help providers shape their policies and practices. This greater understanding should work towards inclusive services. This is where the design and composition of services, products and environment can be accessed, understood and used to the greatest extent possible by all people regardless of their age, disability or ability.

25. In terms of the provision of information to consumers, it is important that this is available to consumers in a variety of formats that best suits the needs of that consumer, for example readability software. Of course, it is important that consumers know these formats are available

and the onus should not be on the consumer to request whether it is available in a particular format, but rather on the provider to inform the customer that it is available. Providers should also proactively inform their customers of the types of support and assistance that are available. We believe that providers should inform their customers of this support when they first sign up and periodically throughout their contract (for example annually). Providers should inform customers via a range of communication methods. Research undertaken by the Utility Regulator in Northern Ireland found that between 31% and 44% either do not read the information sent to them by their energy provider or only glance at it, depending on whether it was about a promotional offer ending, price increase letter, bill statement or annual statement<sup>14</sup>.

### *Treating vulnerable consumers fairly*

26. We recognise that identifying who is potentially vulnerable is challenging for providers. That is why we want to see awareness greatly increased. Some consumers may not recognise themselves as vulnerable. Others may have difficulties with disclosure.
27. We note that Ofcom's evidence suggests providers can make more progress in this area, and that the numbers of customers identified as vulnerable is significantly lower than it would expect. We agree that providers should work harder to pro-actively recognise, identify and react with practical financial and non-financial support to signs of vulnerability and affordability.
28. It is crucial that companies are obliged to raise awareness of the support available so that consumers know what help is available, how they can access it and make decisions on whether the services would be useful to them. To that end, Ofcom should set regulatory targets to ensure an increase in the number of customers that providers identify as living in vulnerable circumstances.
29. We also welcome the inclusion in the guidance to signpost consumers in vulnerable circumstances to other organisations. We believe that a co-ordinated framework to establish signposting agreements should be developed. Where possible consented referrals should be through direct transfer, so that consumers are not "dead-ended"<sup>15</sup> and receive the proper support and advice from the appropriate organisation (for example debt advice agencies, consumer bodies, mental health charities). This framework should also reflect that these organisations can act as representatives of consumers in vulnerable circumstances, with the appropriate consent. The guide makes provisions for relatives and carers acting as representatives, however some consumers may prefer appropriate organisations to act on their behalf.
30. We welcome the provision in the guidance that providers should offer tariff advice, whether that is switching to a cheaper tariff or social tariff for consumers facing a debt problem. However, we believe that providers should also consider implementing the UK Government's proposals to implement 'breathing space'<sup>16</sup> for consumers with affordability issues. Breathing space is a period

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<sup>14</sup> Northern Ireland Domestic Consumer Insight Tracker, Utility Regulator March 2019 <https://www.uregni.gov.uk/sites/uregni/files/media-files/CEPA%20Impact%20Consumer%20Research%20Final%20Report.pdf>

<sup>15</sup> Where the consumer is left at the end of a process without receiving the needed help or the appropriate referral

<sup>16</sup> <https://www.gov.uk/government/consultations/breathing-space-scheme-consultation-on-a-policy-proposal/breathing-space-scheme-consultation-on-a-policy-proposal>



of time during which an individual in problem debt is provided with respite from creditor action in order to fully engage with debt advice and seek a sustainable solution to their debts.

#### *Recording information*

31. We recommend that Ofcom look into data sharing across all essential services for co-ordinated provision of support. The importance of effective, consented data sharing is growing. Done sensitively and with consent the establishment of data sharing protocols could improve understanding, remove a barrier to registration, while lessening the onus and potential distress for consumers. There is consumer support for data sharing. For the Northern Ireland Utility Regulator's review of care registers<sup>17</sup> in 2017, The Consumer Council surveyed consumers, directly targeting groups to whom the registers would be of particular interest. 82% agreed that the information should be shared. This may be something Ofcom could explore across the essential services sector.

#### *Monitoring performance*

32. We welcome the provisions in the guidance for how providers should monitor their organisational performance, including evaluating staff performance and gathering and using customer feedback. Consumers are in the best position to advise on whether the help they receive is meaningful.

33. The guidance is silent on how Ofcom will monitor the providers' performance in complying with the measures highlighted in the guidance. We recommend that providers report annually to Ofcom, and that Ofcom should then report publicly on performance. For example, Ofcom could consider a league table or assign a 'vulnerability score' to compare across companies. This may create an incentive for companies to innovate and provide additionality to the measures within the guidance. Public reporting would also align with open and transparent regulation.

#### *Staff training*

34. We agree that staff training is crucial to giving employees the skills and confidence to provide a high level of service to customers, and particularly those that are vulnerable. We welcome the inclusion in the guidance of allowing flexibility for staff to provide advice and support, and alleviate the pressures of sticking to scripts and concluding the call within specified targets.

35. Treating consumers in vulnerable circumstances fairly should not just be exclusive to call centre staff or engineers. Many providers have stores and therefore staff at these stores must also be aware of, trained on and subsequently implement the providers' policies in relation to treating vulnerable customers fairly.

36. External assurances and accreditations are widely available and providers may wish to consider accreditation schemes, for example BSI 18477<sup>18</sup>. Providers with stores in Northern Ireland could also consider signing up to the JAM Card<sup>19</sup>.

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<sup>17</sup> These care registers are for vulnerable customers who require special assistance and who have requested to be included in the registers  
<sup>18</sup> <https://www.bsigroup.com/en-GB/about-bsi/media-centre/press-releases/2018/july/bsi-launches-verification-scheme-to-ensure-fair-and-flexible-services-for-all/>

<sup>19</sup> <https://jamcard.org/>

## Conclusion

37. We welcome the provisions in the proposed guide and would recommend that the Conditions are amended to ensure providers refer to the latest published guide to ensure equitable treatment for consumers living in vulnerable circumstances.

38. The Consumer Council is happy to work with Ofcom and providers to finalise and help implement the measures in the guidance.

39. If you would like to discuss any aspect of this response please contact [REDACTED]

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