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20 November 2019

Dear Sir/Madam,

Treating Vulnerable Consumers Fairly – A proposed guide for phone, broadband and pay-TV providers

I write in response to the Ofcom consultation on Treating Vulnerable Consumers Fairly. We would like to thank you for the opportunity to comment.

About Ombudsman Services:

Ombudsman Services is a not-for-profit private limited company established in 2002 which runs a range of discrete national ombudsman schemes across different sectors including energy, communications and an appeals service in private parking. Each scheme is funded by the companies under our jurisdiction and our service is free to consumers. In 2018 we received 174,855 initial contacts from complainants and resolved 68,063 complaints. In the energy sector we received 108,349 initial contacts and resolved 45,667 cases, and in the communications sector, we received 62,233 initial contacts and resolved 21,251 cases. We also received over 67,000 appeals in our private parking appeals service.

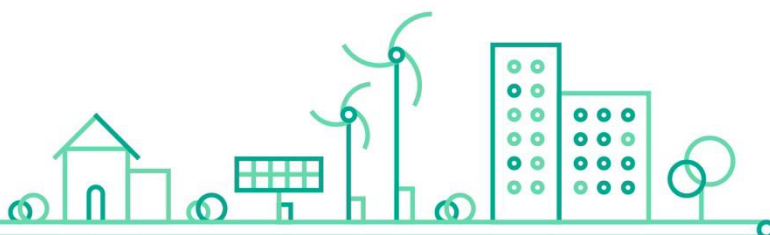
We are:

- to our consumers, the people they can turn to for impartial advice and solution that's fair;
- to our partners, the people they look to for knowledgeable and insightful ways to help them reduce complaints by enabling them to make the changes they need to deliver better customer services;
- to our regulators, champions in protecting rights as well as partners in information sharing, we share our analysis so that regulators and business partners can make improvements; and
- to our people, here to enable them to deliver clarity to consumers and partners through meaningful work.

General comments

We welcome this proposed guide from Ofcom and think it is an important addition to the introduction of General Conditions C 5.1 – 5.5 requiring providers to put in place policies and procedures to treat consumers in vulnerable circumstances fairly. As you may know, we have, at the request of providers, facilitated a series of workshops to help discuss key areas of vulnerability, share good practice and bring into the discussion what is happening in other sectors around treating consumers in vulnerable circumstances fairly. From our experience of working with providers, it is clear that they are keen to engage and do more here to treat consumers in vulnerable circumstances fairly. Providers have been looking for more guidance around the kind of things they should do and what they should be offering to consumers in vulnerable circumstances. So, we welcome this consultation and the measures set out in the proposed guide seem sensible and a good starting point.

Working with the wider regulatory landscape and strategic redress:



As we highlight in our response to the two questions asked in the consultation, the whole area of treating consumers in vulnerable circumstances fairly can be complex, especially when taking an inclusive approach to vulnerability as the draft guide promotes. We agree this is the right approach but think that, as well as providers doing more to identify vulnerable consumers and offer the right help, support and services, it is important for the whole sector to work together to treat consumers in vulnerable circumstances fairly. Indeed, our response also identifies the importance of different sectors working together to share good practice and to work and operate in a more joined up way to treat consumers in vulnerable circumstances fairly.

For example, better sharing and utilisation of data and insights that stakeholders have could have a big impact. At Ombudsman Services we take the approach that prevention is better than cure. So, as well as resolving individual consumer complaints, we use our complaint data to build insights to help businesses in the sectors that we operate in - to improve their customer services and complaint handling to the benefit of all their consumers, especially consumers in vulnerable circumstances, and we work with the wider regulatory landscape to help improve policy development, horizon scan and target consumer detriment as early as possible in order to improve consumer services and complaint handling in the sectors that we operate in. We also look at the impact and outcomes of policy makers and regulators to ensure they are the best they can be for consumers. By working in this way, we help to build consumer trust and confidence in markets. We call this Strategic Redress.

As you know, an example of where this works well is in the energy sector via the Tripartite working between Ofgem, Citizens Advice (including the Extra Help Unit) and the Energy Ombudsman. This involves sharing data and insight to spot consumer detriment early and to act accordingly. There is the potential in the communications sector for a similar approach to be taken, especially with the work being undertaken by the Department for Digital, Culture, Media and Sport around reforming consumer advocacy in Telecoms. This approach would enable a more holistic focus on looking at the outcomes received by consumers in vulnerable circumstances, with a view to improving those outcomes by highlighting good practice but also reducing detriment where that is occurring.

A framework to look at helping align what consumers, including consumers in vulnerable circumstances, think are fair outcomes with what providers think are fair outcomes – the Intent, Execution and Outcomes framework:

As one of the two telecoms alternative dispute resolution (ADR) providers and the single Energy Ombudsman, we have a unique insight into complaints across sectors. Looking at the data from complaints, we think there can be a mismatch between what consumers, including consumers in vulnerable circumstances, think are fair outcomes and what communication and energy providers consider fair. We think there is merit in looking at the general relationship between the intent of providers when it comes to customer service, how that intent is executed in practice and what the outcomes are. The diagram at Figure 1 below helps to illustrate what we mean.

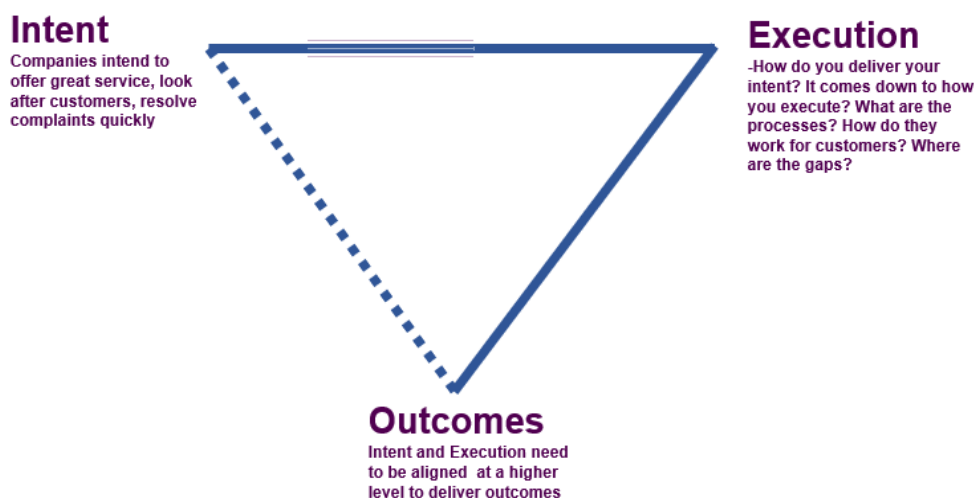


Fig 1.

The diagram links intent, execution and outcomes – the dotted line between outcomes and intent highlights that outcomes achieved should always be reviewed against the intent of the provider. It is a continuous process to build alignment between intent and outcomes. To us, it is clear that:

- providers want to provide good customer service to consumers, including consumers in vulnerable circumstances, or to put it another way they do not intend to provide poor customer service. They operate in a regulated sector with a regulator and other checks and balances being undertaken by the statutory consumer advocacy body Citizens Advice, the Communication Consumer Panel and ADR providers. It is difficult to hide poor customer service in the telecoms sector;
- Ofcom also wants to ensure that fair outcomes are delivered to consumers, including consumers in vulnerable circumstances. This is clear from the obligation to treat consumers fairly and the growing focus on consumers in vulnerable circumstances; and
- other stakeholders, for example consumer groups and policy makers, also want fair outcomes and good customer service for consumers, including consumers in vulnerable circumstances to be delivered.

So how might we help providers, regulators and other stakeholders look at the link between intent and execution to deliver outcomes that are aligned to what consumers, including consumers in vulnerable circumstances, consider are fair, and therefore help to improve consumer trust? If, broadly speaking, the intent part is good then it seems sensible to look at the execution part in more detail. There does appear to be a disconnect between intent and execution and the outcomes achieved. We call this the execution gap.

The execution gap:

From the data and insights we have on complaints, coupled with what consumers and providers are telling us, we know that the execution gap can be the result of a whole range of things from initially accepting a consumer, setting up their account, identifying when and how the bill is sent out, what the bill says, how consumers in vulnerable circumstances can be supported appropriately and dealing with consumer queries. Failure to execute with good customer service means a poor outcome for consumers and a loss of trust – which may mean that consumers switch to a new provider or lose trust in the whole sector.

We think that Ombudsman Services can help providers and assist regulators and other stakeholders in achieving fair and good outcomes for consumers in several ways. For example, by sharing our data and insights with the operational teams of providers to help them bridge the execution gap – provide better customer service, including appropriate support to consumers in vulnerable circumstances and complaint handling to achieve better outcomes for consumers. And by working with other stakeholders by using our data and insights to track the actual consumer outcomes from policy decisions that are implemented. Offering almost real time feedback.

We think that the approach taken by Ofcom in this guidance also goes to bridge the execution gap. The putting in place policies and procedures within a provider, supported by senior level commitment and on-going training of staff, with the use of data and feedback, will help to improve identifying consumers in vulnerable circumstances, and providing the right services and achieving the right outcomes and results that consumers in vulnerable circumstances consider are fair. We welcome this and look forward to working with Ofcom, providers and other stakeholders on this.

Answers to the specific questions raised:

Question 1: Do you have any comments on Ofcom's proposal to publish a guide to help providers treat vulnerable consumers fairly?

We support the proposal to publish a guide to help providers treat vulnerable consumers fairly. We recognise that supporting consumers in vulnerable circumstances is an important area and we know that that providers want to do the best they can for all their consumers.

As you will know, at the request of communication providers, we have facilitated a number of workshops to look at good practice and cross sector practice when it comes to treating consumers in vulnerable circumstances fairly. We have been impressed with the engagement from providers in those workshops and it feels like there is a determination to ensure better experiences for customers in vulnerable circumstances. We think that this guide is a positive and welcome step in making this happen. We also support the approach of Ofcom is setting this out as a

guide for providers to consider. Putting in place a one-size fits all approach would not be appropriate here as the key will be for providers to look at the needs and requirements of consumers in vulnerable circumstances, which may be transitory.

However, we think it is important to understand what vulnerability looks like in the communications sector. It is increasingly becoming recognised that, the role that the sector plays in consumers lives today, providers are offering what could be deemed 'essential services'. In the water sector consumers cannot be cut off from their water supply and in energy it is very rare for consumers to be cut off. Both sectors are essential services. We think it would be interesting to look at what happens to consumers, for example, who due to financial vulnerability are unable to pay their bills across a range of sectors – energy, water and communications. What is the approach taken by each sector, how might a more holistic approach be taken to assist that consumer in their vulnerable circumstances? What would it mean for that consumer if they are cut off from contacting their support network? We think there is an opportunity to focus on these kinds of issues and scenarios in this and future guidance.

Another example, of where there may be cross sector work to join up or make more consistent the availability of help to consumers in vulnerable circumstances is the area of priority services registers. In the energy and water sectors work has been undertaken to have a more joined up register between the two sectors. Consumers have benefited by being able to update their details and needs once and this information is updated for both sectors. Currently, consumers have to update their details separately for the register in the communications sector and we think there would be benefits to joining this up.

We think it might also be helpful to view meeting the needs of and treating consumers in vulnerable circumstances as an evolving strategy. This is the approach that Ofgem has taken setting out five-year strategies for treating consumers in vulnerable circumstances fairly in the energy sector.

Question 2: Do you have any comments on the suggested measures set out in sections 3 – 7? Please set out your comments on each section separately?

We broadly agree that the measures set out in sections 3 – 7 of the consultation are sensible and provide good foundations and starting points for providers to consider. We certainly see the value in some of the principles of getting vulnerable consumer identification right and ensuring proactive senior level engagement. We recognize that there are a range of providers with different capabilities who may find some measures more practical to implement than others.

Establishing and publishing policies

We see the advantages of taking an inclusive approach and recognising the wide range of vulnerable circumstances that can exist and also the fact that vulnerability may be temporary, or people may move in and out and then back into vulnerable circumstances. We think that by establishing and publishing policies it will set down some clear expectations, ensure transparency and enable evaluation of how effective the policies have been and how they can be developed further to be more relevant.

Treating vulnerable consumers fairly

There are a broad range of measures listed within this section and drawing attention to these, will help to focus provider efforts on possible measures. We think it is important to be aware of the impact on providers to implement certain measures. Providers differ in size and the way they operate so it is helpful that the draft guide identifies certain areas and it is ultimately for providers to consider what that means and looks like for its customer base and business.

We agree that identifying vulnerable consumers is paramount to then meeting customer needs and that providers should consider the experience of vulnerable consumers if customer interactions are inflexible. For example, we see there is a lot of value for follow-up written communications and think these can provide peace of mind and be useful after new contracts or agreements.

Specialist teams can help when a company is starting the journey to help deliver services to vulnerable customers. Such specialist teams can hone and focus their training, but vulnerability can cover such a wide variety of customer needs and is not limited to a small subset of customers. Different people can be vulnerable at different times so a customer service team should have the flexibility to change approach to meet changing or new needs of consumers in vulnerable circumstances.

We do think that more can be done to help consumers experiencing debt and think it is sensible to allow consumers some time before taking enforcement action, referring consumers to debt advice and providers discussing payment plans with consumers. There may be more for suppliers to do to ensure such processes are implemented. We think that tariff recommendations should be made to consumers which suit their circumstances better and more could be done to promote social tariffs.

Recording Information

We see how recording information can cause issues for providers. It is key that the information recorded is accurate, relevant and helps providers to better meet the needs of consumers in vulnerable circumstances. Providers can struggle to understand, identify and record the right data and may feel uncertain in what information they are permitted to record. We think that this is an area where an on-going look and sharing of good practice is important, For example, how consumers in vulnerable circumstances are identified in the first place, how those consumers are approach in terms of seeking information, what data is most useful, and how best to assure data accuracy.

Monitoring Performance

We agree with the points highlighted in the consultation around evaluating performance and seeking feedback from consumers. Reviewing complaints data and consumer service survey results can help to identify areas for improvement and help improve training materials and bring to life consumer experience. We think there is value in understanding and sharing good practice across the industry to raise standards so that consumers in vulnerable circumstances can have better and more consistent experiences.

Staff Training

It is important for staff to feel empowered with the right tools and support to facilitate better consumer experiences. It is right for due care to be given to the content and frequency of training for employees, especially those on the frontline.

Please do not hesitate to contact us if you would like further information regarding our response. Our response can be treated as not confidential.

Yours sincerely,

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