



Ofcom Consultation: Proposed Plan of Work 2023/24

THE CONSUMER COUNCIL RESPONSE

8 February 2023

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1. 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 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 and consumers with a disability.

2. RESPONSE TO CONSULTATION

The Consumer Council is pleased to respond to Ofcom's proposed plan of work for 2023/24. Our reading of the consultation document is that Ofcom will prioritise the following consumer outcomes:

- Internet we can rely on
- Media we trust and value
- We live a safer life online
- Enabling wireless services in the broader economy
- Delivering our standing functions

We recognise the vital role Ofcom plays across a wide portfolio as is demonstrated in its consultation. However, our response will focus mainly on the areas where we feel we have evidence or expertise that is relevant.

Northern Ireland Context

To ensure all consumers receive the same protection, irrespective of where they are in the UK, it is vital regulators understand regional differences when considering interventions to protect consumers and prevent harm.

Consumer detriment can be significant at a regional level but relatively small in comparison to the UK, meaning issues of Northern Irish consumer detriment struggle to be prioritised on a UK basis. The achievement of fairness for consumers necessitates different approaches to protections across UK regions. This is of particular relevance in Northern Ireland where the small size of our market, geographical separation from the UK market, an EU land border, and different regulatory regimes create a unique environment for businesses, and different challenges for consumer access, opportunities, and protections.

To improve understanding of the consumer context, the Consumer Council produces a quarterly Household Expenditure Tracker looking at the income and expenditure of Northern Ireland's most vulnerable households. The Q3 2022 Household Expenditure Tracker shows that Northern Ireland's lowest earning households have seen their discretionary income decrease by 46.7% compared to last year (£37.11 to £19.78), meaning these households have less than £20 per week to spend after bills and living expenses.

This is an 11.2% decrease in discretionary income since Q2 2022 and the sixth consecutive quarter discretionary income has fallen.

74% of Northern Ireland's lowest earning households rely on income from social securities compared to 62% in the UK. 44% of families have 'no savings' compared to 16% of UK families. And Northern Ireland Households save £3,000 less than the UK average. So there are fewer consumers with a financial safety net.

As consumers continue to experience the worst cost of living crisis in decades, it is incumbent on regulators like Ofcom to support consumers facing financial hardship and stopping detriment before it happens.

Internet we can rely on

We would encourage Ofcom to include affordability as part of this outcome, making it *'Internet we can rely on and afford'*.

Internet is no longer a nice to have for consumers, it is an essential service needed to access benefits, banking, food shopping and work. It is an enabler which allows consumers to access many markets and must be affordable to all.

Through the Consumer Council Pulse Surveys, we focus on consumer issues relating to the cost of living. In our latest survey 33% of consumers told us their household is unable to cope with bills and buy the essentials they need every month. With 50% saying that their mental health has been negatively affected by their financial situation. Three out of four consumers (75%) report cutting back on essentials after paying their mortgage, rent, loans and overdrafts, with most also reducing their energy use (68%) and the amount they spend on food (59%)¹.

While the reliability of this service is vital, affordability is as important to our most vulnerable consumers. These households according to our Q3 2022 Household Expenditure Tracker have less than £20 per week discretionary income left over after spending on basics.

With only 3.2% of UK households eligible for a social tariff signed up to one, increases in these numbers will be a key measure of success. This is of particular relevance to Northern Ireland where 74% of Northern Ireland lowest earning households rely on income from social securities compared to 62% in the UK. As the regulator who believes 'communication providers have a moral responsibility to promote take up of 'social tariffs' it is vital that Ofcom drives communications both through their communication channels, stakeholders and providers to do more to promote take up.

One Touch Switch

The Consumer Council welcomes the launch of 'One Touch Switch' for home broadband users in April 2023.

In our Impact of Digitalisation on NI Consumers in 2021 report, the cost of broadband access was regularly highlighted by the study participants as an issue. It was suggested, particularly by those living in rural areas, that this was due to a lack of competition between internet providers in many parts of Northern Ireland. Most felt they had no choice but to pay given their household's dependence on internet access².

It will be important for consumers to have broadband choice to be able to avail of the benefits of One Touch Switch. And it will be essential in the year ahead that this new initiative is promoted widely to ensure consumers understand their rights and protections and the benefits of switching. Work should be considered in partnership with consumer bodies to promote the benefits and ease of switching to ensure consumers benefit.

¹ [Northern Ireland Consumer Cost of Living Pulse Survey January 2023.](#)

² [Impact of Digitalisation on NI consumers.](#)

Migration from legacy services

In relation to migration from legacy services, we welcome the managed transition away from legacy services such as traditional landline telephony and 2G/3G mobile. This transition must however have regard for Northern Ireland's most vulnerable consumers. It is also important for service providers to be aware that a proportion of consumers are likely to remain largely off-line. It is essential that these individuals are not left behind.

Mobiles

We welcome the continued focus on **mobile coverage** and **roaming customer protections**. We have welcomed the opportunity to work with Ofcom this year on mobile roaming research examining consumers experiences as a result of the reintroduction of mobile roaming charges, of particular concern to NI consumers. We look forward to continuing this partnership.

Scams

We welcome the focus to tackle nuisance calls and scams in the year ahead and plans to consult on changes to existing rules to strengthen number authentication. Scams are constantly evolving and it is important that regulators focus on delivering increased consumer protections particularly for the most vulnerable.

In 2022 the Consumer Council appointed YouGov to carry out research into scams in Northern Ireland. Of the 1000 consumers surveyed, just under half of NI adults have been targeted by a scam in the past three years, however this was higher among older people (54%) and those living with a disability (54%). Of the methods used to target consumers, 58% was via text message and 52% via telephone³.

There is an urgent need to move from consultation to actions that increase protections, strengthen rules, raise awareness and improve information for consumers.

We live a safer life online

The Consumer Council welcomes the ambition to live a safer life online and the introduction of the Online Safety Bill. It is essential that a robust and agile regulatory regime can move at the same pace as market dynamics. There must be sufficient regulatory oversight and intervention in digital markets, as without this there will be significant risk of consumer detriment.

The speed of digitalisation, accelerated by the COVID-19 pandemic, has made consumers significantly more dependent on digital markets, whether it is how they work, purchase goods and services, or access information and essential services online.

This has had both positive and negative impacts on consumers, and our research shows a real mix of experiences and views from consumers on issues such as access, trust, confidence, security and data protection⁴.

Therefore, we welcome Ofcom's commitment to develop its operational effectiveness in this area and in particular its intentions to publish research relating to the nature and extent of online harmful content online and the effectiveness of potential approaches to tackling these harms.

³ [Scams Survey 2022 \(consumercouncil.org.uk\)](https://www.consumer-council.org.uk/research/scams-survey-2022/)

⁴ [Impact of Digitalisation on NI consumers.](#)

We also welcome Ofcom’s involvement in the Digital Regulation Cooperation Forum. Digital markets do not operate in isolation, and it is incumbent on government and regulators to ensure consumers are adequately protected so there is low risk of detriment, irrespective of sector. It is therefore important that sectoral regulators collaborate and coordinate activities to protect consumers.

Delivering our Standing Functions

Under this section of the consultation, Ofcom states it will *“monitor Royal Mail’s performance as part of our statutory duty to secure a universal postal service, having regard to financial sustainability and efficiency. As well as monitoring competition, we will examine developments in the broader parcels market, and the experience of residential and business postal users.”*

Ofcom lists regulation of postal services as a core element of its work and is identified as a key priority for 2023/24. In the section relating to Regulation of postal services (page 22) we welcome and share the view of Ofcom that it wants to make sure that nobody is left behind as services evolve.

Quality of Service

We would emphasise the importance of the Quality of Service (QOS) targets and Ofcom’s role in ensuring Royal Mail meets these targets. The QOS targets are an important part of the regulatory framework and help ensure consumers receive the level of service for the price they have paid.

The Consumer Council is concerned that Royal Mail has breached the QOS for targets the past three years. While we appreciate the exceptional circumstances due to the Covid-19 pandemic letter delays can have a significant impact on consumers. Recent UK wide research by our colleagues in Citizen’s Advice found that over the festive period in 2022, 61% of respondents in Northern Ireland experienced letter delays. This was just above the UK average (60%)⁵. Of those who faced letter delays in Northern Ireland, 16% experienced a serious negative consequence as a result such as missed important documents, financial appointments, health appointments and Covid-19 vaccine booster appointments⁶. It is also important to highlight that consumers have no choice in the letters market and Royal Mail is a monopoly provider.

Improving Royal Mail QOS performance must be a priority for Ofcom’s postal work in 2023/24.

Affordability and the importance of the Safeguard Price Cap

We support Ofcom’s commitment that it will *“monitor the postal sector as part of our statutory duty to secure a universal postal service, which requires the delivery of letters and parcels to every address in the UK at uniform and affordable prices and to a high level of quality of service.”* The universal postal service is vital to many consumers across Northern Ireland.

The Consumer Council believes the universal postal service must be affordable to all consumers across the UK. Ofcom’s user needs research shows that affordability is the most important feature of the postal service for UK consumers⁷. Similarly for SMEs across the UK, affordability was the second most important feature of the postal service. This underlines the need for a regulatory framework

⁵ Citizens Advice, Yonder Data Solutions, Letter Delays Survey. (Sample Size: 4,148 18+ UK adults)

⁶ Citizens Advice, Yonder Data Solutions, Letter Delays Survey. (Caution Small Base: <100)

⁷ https://www.ofcom.org.uk/data/assets/pdf_file/0014/208220/2020-review-of-postal-user-needs-report.pdf. 90% say it is important that the price.

which ensures consumers and SMEs do not have affordability issues with the universal postal service.

Our research in February 2022 shows that too many Northern Ireland consumers currently have affordability issues with the price of those second-class services covered by the price cap. For instance:

- 27% have affordability issues with the current price of the standard second-class letter service;
- 46% have affordability issues with the minimum cost of sending a second-class small parcel at a post office; and
- 34% have affordability issues with the minimum online cost of sending a second-class small parcel.

The only price protection condition that Ofcom applies within its regulatory framework is the safeguard cap for second class letters and parcels (up to 2kg). The second-class service is the most basic part of the universal postal service which must be affordable to all consumers. In this context, the existing regulatory price cap mechanism is an essential safeguard for consumers.

We understand that Ofcom will set out its proposals on the price cap in 2023/24. The Consumer Council, as part of its work programme for 2023/24 intends to engage with consumers to further understand their views and experiences in relation to affordability and look forward to working with Ofcom to ensure that this key regulatory protection continues and is effective in preventing consumer harm.

Royal Mail's call for reform of minimum requirements for letter deliveries

The Consumer Council understands that Royal Mail has requested to urgently reform the universal postal service by reducing letter deliveries from 6 to 5 days a week. The impact of any potential change on Northern Ireland consumers, especially those with a disability, on low income, living in rural areas and older consumers is unclear. Ofcom user needs report was published in November 2020 and indicated that the vast majority of consumer needs could still be met with a move from 6 days to 5 days. However, we also note that the same report suggests consumers across Northern Ireland attach more value to regular almost daily letter deliveries compared to other parts of the UK.

The Consumer Council research report, published in August 2020, shows that consumers in Northern Ireland are net receivers of letters and on average consumers with a disability estimate they receive 16 letters per month compared to 12 letters for those without a disability.

It is unclear how any reduction in letter deliveries would affect this group and what the potential impacts could be on consumers and small and micro businesses were letter deliveries to be reduced from 6 days to 5 days.

This research also established that 87% of consumers more generally feel one daily letter delivery Monday to Saturday is important with 7% saying it was unimportant. Only the uniform pricing feature performed better. This suggests that Northern Ireland consumers place high value on the 6 day a week service.

In this context there are potential risks for consumers. We need to develop a better understanding about how consumers across Northern Ireland would be affected by a reduction to letter deliveries

by removing Saturday deliveries as Royal Mail is requesting. We look forward to sharing our work with Ofcom in this area.

Regulatory reporting

We welcome Ofcom's commitment that its monitoring programme for 2023/24 will be enhanced to reflect the conclusions of the 2022 review of the future regulatory framework for post this will include new guidance and obligations in the parcels market for the handling of complaints and treatment of disabled customers as well as enhanced monitoring of Royal Mail's efficiency progress and the sustainability of the universal postal service. We look forward to engaging with Ofcom on these areas throughout 2023/24.

Impact of EU Exit on parcel services

Northern Ireland consumers continue to experience impacts on their parcel service as a result of EU Exit. The Consumer Council research conducted in early 2022⁸ focused on the experience and perceptions of consumers when shopping online and using postal services to receive goods from GB and the EU, and to send parcels to the EU. The key findings from the research were:

- Over three quarters of respondents say (77%) they have experienced UK online retailers no longer delivering to Northern Ireland
- Over half of respondents say (53%) they have experienced EU online retailers no longer delivering to Northern Ireland
- Nearly two thirds of respondents say (64%) they have experienced delayed delivery of goods from GB online retailers
- Nearly half of respondents say (48%) they have experienced delayed delivery of goods from EU online retailers
- Over half of respondents say (57%) they have experienced reduced access to products offered by online GB retailers
- More than a quarter of respondents say (27%) they have been charged customs related fees for parcels coming from GB and a similar proportion (30%) have been charged customs related fees for parcels coming from the EU
- Around one in four respondents say (27%) they have had problems with returning goods and getting refunds from GB retailers and a similar proportion (24%) have had problems with returning goods and getting refunds from EU retailers
- Three out of five (60%) respondents have started to check where a retailer is based to avoid extra charges; and
- Of those (181 respondents) who had sent a parcel to an EU country in the past 12 months, two thirds (67%) say they had encountered some difficulty such as the need for customs labels (52%) and recipients being asked to pay import duties and fees (18%).

The survey also revealed two fifths (41%) of respondents stating they still require information about postal services in relation to EU Exit and its potential impact in Northern Ireland.

This emphasises the need for clear, accurate and timely guidance to be made available. Two thirds of respondents who sent a parcel to an EU country in the past 12 months say they encountered some difficulties. We will continue to provide insight into the issues faced by Northern Ireland consumers post EU Exit and work in partnership with Ofcom to ensure it is aware of the issues being experienced by consumers in Northern Ireland.

⁸ Findings previously shared with Ofcom

3. CONCLUSION

The Consumer Council welcomes the opportunity to comment on Ofcom's proposed plan of work for 2023/24 and we support Ofcom in its priority of ensuring people can access affordable services and to support fairness for consumers.

Our response shows that Northern Ireland consumers are experiencing significant economic impacts. Northern Ireland's lowest earning households have less than £20 per week to spend after bills and living expenses.

As stated above, 74% of Northern Ireland lowest earning households rely on income from social securities compared to 62% in the UK and 44% of families have 'no savings' compared to 16% of UK families. Therefore, more and more consumers here have no safety net to be able to cope with even the smallest change in their financial circumstances.

It is essential that Ofcom prioritises affordability and consumer protection as key principles in the current climate and to do all it can across its remit to prevent consumer detriment before it happens.

The Consumer Council looks forward to working with Ofcom throughout its work plan and engaging on key consumer policy issues across the areas of shared interest. We are keen to support Ofcom in ensuring Northern Ireland consumers are adequately protected and markets are regulated in a way that prevents harm, producing clear consumer benefits.

4. CONTACT INFORMATION

To discuss our response in more detail, please contact:

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The Consumer Council consents to this response being published.