



The Consumer Council for Northern Ireland's response to Ofcom's review of measures to protect people in debt or at risk of disconnection

30 September 2021

1. Introduction

- 1.1 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 (NI).
- 1.2 The Consumer Council has specific statutory duties in relation to energy, postal services, transport, water and sewerage, and food affordability and accessibility. We also educate and empower consumer against unfair or discriminatory practices in any market including financial services and private car parks.
- 1.3 Across both our statutory and non-statutory areas, we pay particular regard to consumers:
 - Who are disabled or have long-term health conditions;
 - Of pensionable age;
 - With low incomes; and
 - Who live in rural areas.

2. Regulatory context

- 2.1 The Consumer Council is pleased to respond to Ofcom's call for input for its review of measures to protect people in debt or at risk of disconnection in the communications market.
- 2.2 We note that the purpose of the call for input is to help Ofcom understand if it is appropriate to retain or strengthen the existing treating vulnerable customers guide and/or its regulatory rules for those consumers struggling to pay their mobile, broadband and TV bills.
- 2.3 In summary, we understand that Ofcom does feel there is a case for amending its rules or expectations for communication providers dealing with consumer debt and disconnection, and for setting best practice recommendations so providers adopt practical measures for those struggling with their communication bills.

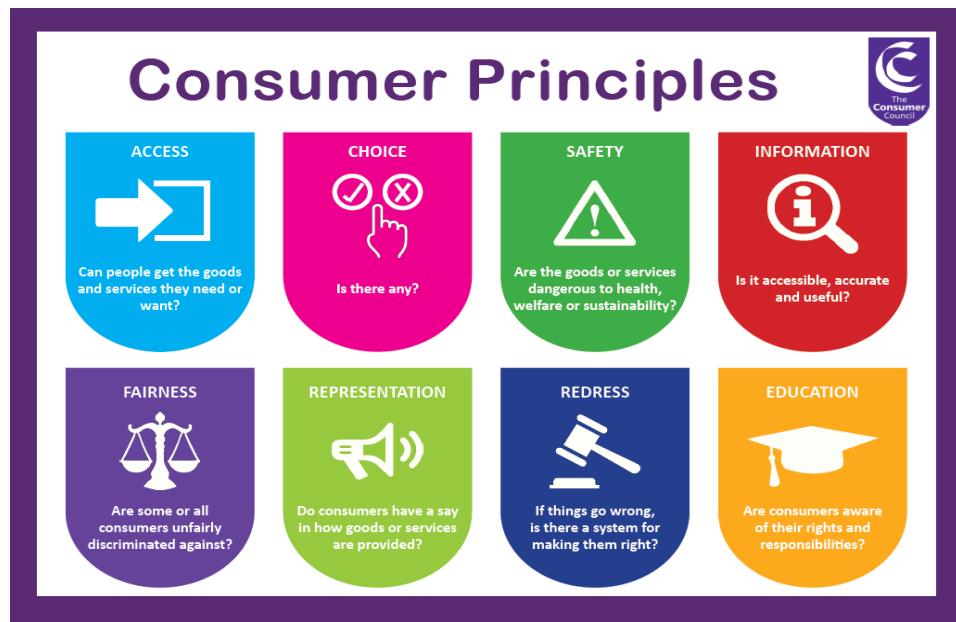
- 2.4 Ofcom explains it will consider the need to amend its guide or regulatory rules after the review of its call for input exercise.

3. Importance of regulatory consumer protection

- 3.1 The Consumer Council believes that Ofcom must protect consumers that are experiencing financial vulnerability and are unable to pay their mobile, broadband and pay TV bills. With this in mind, we are encouraged that Ofcom explains that treating consumers fairly, especially those in vulnerable circumstances, is a priority.
- 3.2 This is an important review by Ofcom at an important time for consumers. There is now a clear opportunity for Ofcom to further protect consumers struggling to pay their communication bills, by ensuring all communication providers fully support consumers by providing a consistent and high level of assistance to reduce consumer detriment. The regulatory communication debt and disconnection framework must be consumer-focused.
- 3.3 The Consumer Council's response is provided with a view of asking Ofcom to strengthen the regulatory rules around debt or risk of disconnection so there are clear expectations across the communication sector about how its policies, procedures and practice must support consumers in this vulnerable position.
- 3.4 We believe a rules based approach will better protect consumers by reducing the risk of a harmful debt cycle and loss of access to essential communication services. These regulatory rules can be complemented with a guide to help communication providers interpret those rules. But a guide in itself is inadequate without specific regulatory requirements that ensure there is adequate protection for these vulnerable consumers.

4. Consumer Principles

- 4.1 The Consumer Council uses eight consumer principles to set a consumer-focused framework within which we work. These eight principles are outlined below.



- 4.2 The Consumer Council recommends that Ofcom adopts these eight principles as part of its analysis to develop a framework that is relevant, fit for purpose and ensures positive interventions which lead to improved consumer outcomes for those experiencing financial difficulties with their communication provider.

5. Economic outlook for NI consumers and wider considerations for Ofcom

- 5.1 Ofcom highlights the impact of COVID-19 and how the pandemic has emphasised the importance of communication services. Indeed, a United Nations article highlighted a similar point and identified how the pandemic has changed the way citizens work, communicate with each other, shop, carry out educational activities and make use of their recreational time¹. This underlines the need for those in debt or at risk of disconnection in the communications sector to be fully protected from disconnection, and to receive an adequate level of support from all providers if they are struggling to pay their communication bills. Communication services are an essential service.
- 5.2 The Consumer Council also notes that Ofcom has not yet seen evidence of significant consumer harm that would justify amending the current rules for communication providers. However, our research helps to provide an explanation as to why it is unlikely that the full extent of household debt including falling behind with communication bills is unknown². Advice agencies explain that debt within Northern Ireland's low income households is building up in the longer term and say that it typically takes two years for debt to become problematic.
- 5.3 This suggests that debt problems may not become clear until 2023. The research also highlights that people are currently concentrating on more urgent issues such as health and

¹ <https://news.un.org/en/story/2020/05/1063272>

² Social Market Research. Experiences of Low Income Households during COVID-19. March 2021.

wellbeing which means they are not dealing with increasing debt³. This indicates that it may take more time for Ofcom and communication providers to become aware of the nature and extent of consumer debt in the communications market. It is vital to develop the regulatory framework now so it is equipped to proactively protect vulnerable consumers in the challenging years ahead.

- 5.4 It is also important for Ofcom to recognise that COVID-19 has reduced NI consumers' household income with almost one in three (32%) seeing a reduction and it is unclear if or when this household income will recover⁴. This must be considered in the context that NI consumers already have the lowest levels of disposable income across the UK. For instance, consumers in NI have on average £143 of weekly discretionary income, compared to the UK average of £246⁵. The combination of a reduction of household income and the lowest level of disposable income of any UK region increases the likelihood that consumers across NI will struggle with bills including communication bills.
- 5.5 The current economic climate clearly represents a significant challenge to consumers. Other Consumer Council research shows that many consumers across NI are concerned about price increases and consumers explain they will struggle to cope with any increases in the price of goods and services across various markets⁶. Again, this strengthens the need for improving the existing regulatory approach now rather than reducing it to the pre-pandemic levels.
- 5.6 Additionally, many consumers at greater risk of experiencing vulnerability are those that have been relying on the increased Universal Credit payments during the pandemic. However, these additional payments stop on 6 October 2021. Indeed, the Department for Communities raised its concerns with the Department for Work and Pensions⁷ about how these consumers will be negatively affected by this decision at a time of increased financial pressure, job losses and debt. The removal of the Universal Credit uplift also has the potential to have a disproportionate impact on low income households in NI. Research produced for the Consumer Council by the Centre for Economic and Business Research found that households in the lowest income quartile saw 75% of their income derived from social security benefits compared to the UK lowest quartile of 63%.
- 5.7 More recently, it has been reported that consumer prices have increased by record levels and some experts believe the cost of living will increase quickly, reaching 4% inflation by November 2021. This will put consumers under even greater financial pressure in the coming months⁸.

³ Social Market Research. Experiences of low income families during COVID-19. March 2021.

⁴ YouGov. Consumer insight Survey 2021. March 2021.

⁵ Centre for Economics and Business Research Ltd. ASDA Income tracker. March 2021.

⁶ NI affairs evidence, research briefing on the Northern Ireland consumer experience of EU exit.

⁷ <https://www.communities-ni.gov.uk/news/minister-hargey-urges-dwp-retain-ps20-universal-credit-uplift>

⁸ <https://www.bbc.co.uk/news/business-58563417>.

- 5.8 Considering these challenges, Ofcom must carefully and thoroughly understand how best to protect vulnerable consumers struggling to pay their communication bills at this critical time. Ofcom must ensure it takes account of the wider environment including the impact of COVID-19, EU exit, the removal of government support with the withdrawal of the Universal Credit uplift payments and the rapidly increasing cost of living. These are all contributing to the significant pressure on household budgets. Additionally, Ofcom should consider how the regulatory framework can protect micro and small businesses that struggle to pay their communication bills and are at risk of debt and disconnection.
- 5.9 Ofcom's final approach must ensure that its regulatory measures protect consumers both in the short and long term so consumers get support when struggling with their communication bills. These vulnerable consumers must also have continued access to communication services when they are experiencing financial distress, so they can continue to engage with the various consumer markets that rely on digital platforms as their main interface with consumers.

6. Provider practices regarding the treatment of financially vulnerable customers

Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

- 6.1 The Consumer Council believes that the regulatory rules and expectations on providers require strengthening. We appreciate some providers may be going beyond the minimum requirements in the guide which makes suggestions. However, it is the right time to improve the minimum standards by updating the regulatory rules so there is greater consistency in the approach taken by all providers across the communication sector. We have outlined some of those reasons above (Section 5) that include the impact of COVID-19, EU exit, removal of government support and the significant increase to the cost of living.
- 6.2 Communication services are now viewed by many NI consumers as an essential service in the same way as consumers think about energy and food. This is illustrated by recent Consumer Council qualitative research where a consumer commented⁹:

'My husband works with a lot of families in poverty and one of the big issues during lockdown has been, do you provide Wi-Fi or do you provide heat in the house for your children? So, their education or their heat and food. Probably five years ago people would have talked about fuel poverty and you would have discussed heat and food; you would have never considered broadband as an expenditure that's essential...'

- 6.3 This underlines the need to support financially vulnerable consumers in the communication market which is underpinned by regulatory consumer protection measures.
- 6.4 We note that Ofcom found that debt and disconnection policies can vary by provider¹⁰. Consumers should expect to be fully supported when they are experiencing financial distress

⁹ Perceptive Insight. Impact of Digitalisation on NI consumers. March 2021.

¹⁰ Ofcom. Call for Input. Paragraph 2.8.

by the communication industry regardless of which provider they deal with. This should be addressed by updating the regulatory expectations in this area.

- 6.5 The Consumer Council agrees that providers must have policies and procedures to deal fairly with vulnerable consumers. These policies must be visible and easily accessible to all consumers. Consumers need clear information about the type of support a communication provider will provide should they struggle to pay their communication bills.
- 6.6 Early intervention is key to preventing a harmful debt cycle. It is our view that improved provider and consumer understanding will support early identification and more effective interventions.
- 6.7 However, consumers also need to be confident that their communications provider will treat them fairly. Consumers must have trust that their provider will provide adequate support. This, in part, can be achieved by providers being transparent on the available support alongside a clear commitment that disconnection is a last resort and that a provider will make every effort to avoid this detrimental action.
- 6.8 Indeed, a Competition and Markets Authority (CMA) study highlights the importance of providing early debt advice. Research shows that consumers who seek debt advice at an early stage are more likely to resolve their debt problems¹¹. Providers must ensure that this happens and that it happens in a supportive environment.
- 6.9 Information about what support is available must be easy to find on all providers' websites. Additionally, providers must also detail the full range of available support when they are engaging directly with consumers. The Consumer Council agrees that the communication provider must focus on available support rather than debt repayment and the negative consequences of failing to meet a repayment plan. The purpose of this supportive activity must be to improve outcomes for consumers experiencing financial distress. The Consumer Council believes there should be a regulatory requirement that providers need to comply with, and that Ofcom can effectively monitor and intervene when necessary.
- 6.10 The Consumer Council supports the suggestion that the industry and Ofcom work together to assess the effectiveness of the different types of communications and how consumers respond. The objective must be to establish what method produces the most effective interventions that benefit consumers by reducing consumer harm around debt and disconnections. This work should recommend what approaches providers are required to take to support vulnerable consumers. This will facilitate ongoing improvement across the industry on how it deals with debt issues and how it can develop industry practice.
- 6.11 The Consumer Council is concerned to learn that some providers do not allow consumers in debt to deal with them by letter, email or webchat. This is a restrictive practice which reduces the ability of a provider to support consumers struggling with their bills. We recommend that Ofcom implements a consumer protection measure that addresses this issue by requiring providers to 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.

¹¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/362689/Problem_debt.pdf

6.12 The Consumer Council also notes one key finding from UK wide research into understanding communications service needs of low income households¹². It explains that low income households will sometimes give these bills priority over other essential services. The reason, communication providers are viewed as being more demanding and robust with consumers in financial difficulty, and quicker to charge extra fees or disconnect services. This is a significant concern which needs to be addressed by implementing adequate regulatory consumer protection measures rather than a standalone voluntary guide. Consumers should not feel pressured by a communication provider's negative approach to handling vulnerable consumer debt issues and by charging extra fees which only make the situation worse.

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

Do you agree that we should amend the guide in the ways suggested? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to.

- 7.1 It is vital that consumers are aware of the option to receive free and impartial debt advice. This will support effective early intervention that benefits them. Consumer debt is harmful and providers must make every effort to ensure vulnerable consumers are aware of those independent organisations that can provide support. All providers should be expected to do this and it should be a regulatory requirement. Communication providers can be supported by Ofcom with a complementary guide and best practice on how to do this.
- 7.2 While we believe making consumers aware of the availability of free and impartial debt advice is a regulatory requirement, it is important that this complements the support that providers are required to provide. The requirement must not incentivise provider behaviour so it avoids providing support in favour of signposting to debt advice agencies. This can be addressed by updating the regulatory requirements and a supporting guide to safeguard against the incorrect interpretation of the rules.
- 7.3 It is essential that providers work with independent and free debt advice agencies to help support vulnerable consumers. This can include helping micro and small businesses that require support. We agree with Ofcom that a dedicated contact channel between free debt advice agencies and the provider is required to make the process effective and efficient. This will also allow the industry and advice sector to build productive relationships which will help reduce consumer detriment by improving debt and disconnection practices. This is supported by the CMA study highlighted above (Paragraph 6.8) which shows consumers who seek debt advice at an early stage are more likely to resolve their debt problems¹³. This benefits all parties and we believe that a productive relationship between industry and free advice agencies is a key component to help resolve debt issues.
- 7.4 It is equally important for providers to ensure that they signpost consumers to the most appropriate organisations responsible for free and independent advice in each of the nations across the UK. This will ensure consumers have a clear and easy to navigate pathway to

¹² <https://www.communicationsconsumerpanel.org.uk/research-and-reports/dont-cut-me-off-the-experiences-of-communications-consumers-living-in-low-income-households-in-the>

¹³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/362689/Problem_debt.pdf

those designated advice bodies in the respective nations. This should be captured as part of Ofcom's approach to improving industry practice.

- 7.5 While this relationship between industry and free debt advice agencies will support individuals, over time it will also provide strategic insight which can lead to more improvements in this area to help prevent debt and the risk of it escalating. Indeed, it can help improve regulatory and provider policies to better support vulnerable consumers.

8. Measures taken by providers to effect payment

Do you agree that there should be more consistency in the way in which providers seek to effect payment from customers in debt? If so, how do you believe this could be achieved most effectively? Please provide evidence supporting your views, including any research you have conducted or have access to.

- 8.1 The Consumer Council supports regulatory measures that prevent providers from imposing service restrictions, which means providers waive any late payment penalty charges or early termination charges, limit debt collection activity and remove the threat of disconnection. Providers' efforts must focus on early intervention and support.
- 8.2 Debt repayments must be agreed on an affordable basis and in a way in which the needs of the consumer or their representative are fairly balanced. Each party must reach a mutually agreed solution without the fear of sanctions or increased debt that would lead to consumers agreeing to a solution that will exacerbate the level of financial and mental distress.
- 8.3 However, we note that providers only have to refrain from imposing restrictions when consumers are actively engaging and seeking support with the provider. There must be a clear regulatory requirement around how actively engaging is being defined and what steps providers must take before imposing sanctions. Indeed, the threshold must be high before a provider takes this type of action. Also, there must be a regulatory requirement on providers to identify and understand any vulnerability issues before imposing service restrictions.
- 8.4 With this in mind, we recommended that Ofcom issues clear guidance on how it defines active engagement between providers and vulnerable consumers. We also suggest that providers are required to retain records on how and when they have sought to engage with those struggling with paying their bills. Additionally, provider records must show how they checked for consumer vulnerability. This must be made available by the provider when disputes arise between the provider and the consumer about debt levels and/or failure to treat consumers fairly. This will increase transparency and accountability within the communication sector.
- 8.5 It is also vitally important that providers only start debt collection activities after a sufficient period of time has passed without an agreed plan that supports consumers. It must also only start this activity when it is clear that the provider has fulfilled all its obligations and that consumers have had adequate time to find a realistic and affordable solution. We recommend that these aspects are satisfied before debt collection activities are allowed to commence. This should be captured by regulatory requirements.
- 8.6 We note that the typical time involved for consumers to get help for debt will vary. We understand that disconnection timeframes range from 50 days to 200 days. Ofcom must understand the reason for these variations and those approaches that are more likely to

provide improved consumer outcomes. This will help ensure Ofcom's final proposals lead to better consumer protection.

- 8.7 In this context, the Consumer Council would suggest that Ofcom carries out further research in this area before recommending a period of time.
- 8.8 The Consumer Council also notes that nearly all providers either outsource debt collection or sell the debt to external debt collection agencies. We also understand that Ofcom's sample shows only five out of 14 use debt collection agencies that are regulated by the Financial Conduct Authority (FCA). Considering this, we recommend that Ofcom introduces a regulatory requirement that if a provider uses an external debt collection agency, this agency must be regulated by the FCA. This will help to improve trust in the overall approach to debt and disconnection within the communications market.
- 8.9 Ofcom must continue to monitor service restrictions and disconnections to fully understand how this action is affecting consumers. This will inform future regulatory interventions. It is also important that these interventions are quick to reduce the risk of escalating consumer detriment. Again, all efforts must focus on early supportive intervention without the need to bring in third parties for debt recovery. We also believe there should be transparency on which third party providers are used for this practice and there must be robust accountability for this activity.

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

Do you agree that we should amend the guide regarding the provision of information about measures to support customers? If not, are there any alternative options you think we should consider? Please provide evidence supporting your views, including any research you have conducted or have access to

- 9.1 Providing adequate staff training to help empower staff to support vulnerable consumers should be a requirement of all communication providers. Providers must train staff to identify and deal empathically with vulnerable consumers struggling to pay their bills. This will help with early intervention and increase the likelihood of improved outcomes.
- 9.2 This requirement should ensure consumers have easy access to the skilled and empathetic staff who are authorised and have discretion to reach debt solutions that are tailored to the individuals' needs. It should also cover dealing with organisations and charities that provide free debt advice and support so that consumer harm is reduced, and issues are dealt with quickly and in a way which supports vulnerable consumers.
- 9.3 As previously explained, providers must explore all supportive options with consumers. This includes proactively exploring downgrading to cheaper tariffs or moving consumers to social tariffs. Indeed, social tariffs should be made available by all communication providers as one way to help those that are struggling with their bills.
- 9.4 Equally, providers must be transparent on all the available support alongside a clear commitment that disconnection is a last resort and that they will make every effort to avoid this loss of service. Again, the Consumer Council would highlight that communication services are now essential services and consumers view them in the same way as they think about energy and food. (Paragraph 6.2)

- 9.5 Furthermore, providers must take action to prevent the accumulation of any charges so debt does not increase, and they must agree a repayment plan that supports consumers through what is a difficult and stressful time.
- 9.6 Providers must be transparent with consumers and their representatives across all their communications about how they will provide support so better decisions can be made that improve the debt interventions.
- 9.7 Recent research shows that 29% of UK consumers with poor mental health, low mental capacity or cognitive difficulties got into debt as they did not want to deal with difficult financial situations¹⁴. Alongside this, 16% with low financial capability had fallen into debt which might have been avoidable if they better understood their options¹⁵. This reinforces the need for providers across the communication sector to be consistent in their approach, provide a supportive environment and to ensure consumers are fully aware of all their options. It also emphasises the need for adequate staff training and productive relationships with organisations and charities that can provide free debt advice and support to vulnerable consumers.
- 9.8 The Consumer Council suggests that Ofcom strengthens its regulatory approach by ensuring there is a requirement for the provision of information about all the available measures to support consumers in debt or at risk of disconnection.
- 9.9 Lastly, the Consumer Council is worried about the findings from Ofcom's Affordability of communications services research. This explains that low income households are disproportionately affected by the risk of affordability issues in the communication sector. We note the role of social tariffs and how these could help by making communication services more affordable, especially for low income households which would reduce the risk of debt. However, we understand that Ofcom is currently unable to make social tariffs a regulatory requirement. Instead, this action would need to be directed to Ofcom by the UK Government. This is another reason which supports the need for the regulatory rules and expectations on providers to be strengthened.

10. Conclusion

- 10.1 The Consumer Council has explained throughout its response that a regulatory rules based approach will better protect consumers that are struggling to pay their communication bills, and are at risk of debt and/or disconnection. Therefore, we recommend that Ofcom moves towards this approach to protect vulnerable consumers and away from voluntary guidance. This will ensure there is a consistent approach across the communication sector, and it will create a supportive environment leading to more effective and efficient interventions that reduce the risk of consumer harm. Ultimately, it will produce better outcomes for consumers.
- 10.2 If you would like to discuss this response please contact Michael Legg, Head of Postal Services Policy. Details provided below.

¹⁴ <https://www.fca.org.uk/publication/research/financial-lives-survey-2020.pdf>

¹⁵ <https://www.fca.org.uk/publication/research/financial-lives-survey-2020.pdf>

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30 September 2021