



Department of
**Enterprise, Trade
and Investment**
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FUTURE ARRANGEMENTS FOR CONSUMER REPRESENTATION IN NORTHERN IRELAND

CONSULTATION

OCTOBER 2013

Contacting Us

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CONSUMER REPRESENTATION IN NORTHERN IRELAND

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Consultation questions – see separate “Consultation Response” document.

Ministerial Foreword

In October 2012, my Department commissioned an independent review of the efficiency and effectiveness of the Consumer Council for Northern Ireland (CCNI). The review took account of the changing consumer landscape in Great Britain, and the views of a wide range of stakeholders. I am now in receipt of the report setting out the review's conclusions, and its recommendations for the exercise of the consumer representation function in Northern Ireland.

The report recognises that the Council has been responsive to consumers, and has been effective as an organisation. However it concludes that the political and consumer landscape has changed significantly since the CCNI was created in 1985. We now have:

- locally accountable government in Northern Ireland post-Devolution;
- the existence of numerous local and regional advice bodies;
- a Utility Regulator to protect consumer interests in the energy and water sectors;
- an effective Trading Standards Service for Northern Ireland; and,
- much greater retail competition on the High Street.

In that context, the report concludes that the continued existence of the CCNI is no longer essential to consumers, nor may not be the most cost-effective mechanism for consumer representation in Northern Ireland..

However, the Report recognises that the Council provides certain functions in relation to the regulated industries that are not currently exercised by another body, but must continue to be exercised.

I have considered the report findings, but before coming to a decision, I want to seek your views on the most appropriate arrangements for the future delivery of consumer representation in Northern Ireland, recognising the very different political and consumer context we now enjoy.

I am seeking views on the three delivery options:

- continuation of the current CCNI model of a non-departmental public body to represent the consumer;
- the establishment of an independent consumer representative body outside government; and,
- the transfer of the consumer representation role, including the regulated industries role, to an existing non-government advice body .

The Executive, in its 2011-15 Budget, committed to undertake a review of Arms Length Bodies, to ensure Ministerial priorities and statutory commitments continue to be delivered in the most cost-effective manner. The review of the CCNI, and this consultation on the future delivery of consumer representation in Northern Ireland, is a continuation of this process of ensuring value for money in the use of public funds and the delivery of services to the Northern Ireland public.

Thank you for your interest in this important issue.

A handwritten signature in black ink, appearing to read 'Arlene Foster'.

Arlene Foster MLA

Minister of Enterprise Trade and Investment

INTRODUCTION

- 1.1 This consultation invites views on the future delivery of consumer representation in Northern Ireland. It follows an independent review of the current statutory consumer representative body in Northern Ireland, the Consumer Council for Northern Ireland (CCNI), commissioned by the Department of Enterprise Trade and Investment (DETI), and takes account of the recent significant changes to the consumer landscape in Great Britain.
- 1.2 DETI wants to ensure that an efficient and effective consumer protection and empowerment regime is in place, which meets the needs of consumers and fully supports the Executive's wider economic priorities, in the context of the financial and budgetary constraints within which the Executive must operate.

Context

- 1.3 The UK Government has stated that the prime objective for consumer policy is to empower consumers to make wise decisions when purchasing goods and services. Informed consumers demand choice and by exercising it, stimulate competition and innovation, as well as high standards of consumer care. The importance of getting this right is clear, particularly given the Executive's stated aim to grow the private sector in Northern Ireland, and enable it to compete on a UK, Island of Ireland and international basis. The whole area of consumer affairs, and in particular, the importance of consumer confidence is recognized as an important driver in the economy.
- 1.4 The Department for Business Innovation and Skills in England has carried out an extensive review of services for consumers and has made a number of far-reaching policy decisions in relation to the consumer landscape, the implications of which need to be considered for Northern Ireland.

2. CONSUMER REPRESENTATION IN THE UK

Consumer Representation in Northern Ireland

The Consumer Council for Northern Ireland (CCNI)

2.1 The CCNI was established in 1985. It replaced the Northern Ireland Consumer Council, the Northern Ireland Electricity Consumers' Council and the Transport Users Committee. In 1992 its electricity functions were transferred to the Office of Electricity Regulation for NI. The CCNI took on responsibility for coal consumers in 1995, and consumers of natural gas in 1996. In April 2003 it once again took on responsibility for electricity consumers. From 1 April 2007 the Council took on responsibility for water and sewerage services customers.

Principal Functions of the (CCNI)

2.2 CCNI has a very broad and overarching role to promote the interests of consumers in Northern Ireland, with particular reference to utilities and transport services. Specifically, its main functions are to:

- Promote and safeguard the interests of consumers in Northern Ireland
- Represent consumers of electricity, natural gas and coal
- Represent users of water and sewerage services
- Represent transport users (including air and shortly, sea transport, under contract with Department for Transport)
- Represent consumers in relation to food prices and customer experience
- Help consumers in managing money
- Consider consumer enquiries and complaints
- Undertake research
- Educate and inform consumers

2.3 CCNI's legal powers include:

- Representing the views of consumers on consumer matters
- Making proposals or providing advice and information about consumer matters
- Obtaining and keeping under review information about consumer issues and the views of consumers on these matters
- Achieving redress for consumers by investigating complaints to secure the best possible outcome
- Publishing information in the consumer interest
- Ensuring compliance with equality legislation and having regard to Government anti-poverty initiatives so that vulnerable consumers are safeguarded

2.4 CCNI has specific duties in relation to the regulated industries, energy, and water and sewerage. With regard to energy, CCNI's role is to promote and safeguard the interests of all energy consumers by:

- Providing advice and information to consumers, public authorities and other persons;
 - Investigating consumer complaints;
 - Obtaining and keeping under review information about consumer matters and the views of consumers about such matters.
- 2.5 In relation to water and sewerage services, CCNI's role is to:
- Represent the views of consumers;
 - Exercise powers to request, acquire, review, provide and publish information relating to consumer matters
 - Exercise powers in relation to consumer complaints in order that it can promote and safeguard the interests of consumers;
 - Investigate other matters relating to consumers' interests and report its findings to any public authority, whose functions appear to CCNI to be exercisable in relation to that matter.
- 2.6 The Utility Regulator is responsible for investigating all complaints that are solely about an enforcement matter, a determinable dispute, or a competition matter for which the Utility Regulator has powers.
- 2.7 In relation to transport, under the Department for Regional Development's (DRD) public transport reform proposals, the role of CCNI will change, and it will have the following additional statutory responsibilities, provided for through the Transport Act (NI) 2011:
- a role in informing DRD's decision-making process on all applications for bus service permits (previously the Road Service Licence function performed by the Department of the Environment);
 - a requirement to work with DRD on areas of shared interest relating to public transport services (arrangements to be set out in a Memorandum of Understanding) to include the sharing of information;
 - a requirement to produce a forward work programme for its public transport-related activities to be agreed with DRD; and
 - retention of its current role in respect of rail services.
- 2.8 It is currently intended that these new arrangements would come into force in April 2014. A new group called Transport NI is being set up within DRD. This will combine roads and public transport authority functions, and in the future it would be the main point of liaison between CCNI and DRD on these matters. CCNI will also be consulted by DRD in a number of key work areas including the development of local public transport plans, the service specification for the new contracts to be introduced with Translink for the provision of public transport services and in relation to the regulation and setting of fares.

- 2.9 CCNI also has a Memorandum of Understanding with the Department for Transport in England and the Civil Aviation Authority. CCNI handles complaints on their behalf in relation to the rights of disabled persons and persons with reduced mobility when departing or arriving at Northern Ireland airports. Complaints alleging discrimination or breaches of equality or disability legislation are dealt with by the Equality Commission for NI. It appears that the scope of this will shortly be extended to include disabled persons and persons with reduced mobility travelling by water.
- 2.10 CCNI also has a Concordat with the Food Standards Agency in NI. This is a high level statement of intent that each body will communicate and cooperate with the other “to ensure that the best possible service is delivered to citizens in NI”. In practice CCNI has chosen to represent consumers in relation to food prices and customer experience.
- 2.11 As part of the Department for Business Innovation and Skill’s decisions on consumer affairs, “Empowering and Protecting Consumers” (April 2012), it has been agreed that Consumer Focus Post NI should be transferred to CCNI, once a suitable legislative vehicle has been found.
- 2.12 CCNI is a designated body for the purposes of “super-complaints”, and can refer any consumer goods and services issue to the Office of Fair Trading where it believes that the operation of the market may be harming the best interests of consumers.
- 2.13 CCNI has a statutory duty to develop and consult on a Forward Work Programme for Water, Energy and Transport under the Water and Sewerage Services (NI) Order 2006, the Energy Order 2003 and the Transport Act (NI) 2011.

Consumer Representation in Great Britain

- 2.14 The Department for Business Innovation and Skills (BIS) in England issued a consultation paper entitled “Empowering and Protecting Consumers” in June 2011 setting out proposals for streamlining and simplifying advice, support and protection for consumers. The then Secretary of State for BIS said in his foreword:

“There is currently a bewildering array of public, private and voluntary bodies with overlapping responsibilities. Each individual organisation does a very good job and is highly regarded. But, taken together, they form a complex landscape that is difficult for consumers to understand. This duplication of effort also leads to waste and inefficiency in the use of public funds.”

2.15 BIS issued the Government's decisions on this consultation in April 2012.. The main points of relevance to NI were:

- Citizens Advice and Citizens Advice Scotland will be responsible for consumer-facing education from April 2013;
- Citizens Advice and Citizens Advice Scotland will become the publicly-funded voice of consumers in terms of consumer advocacy from April 2013;
- Citizens Advice will undertake research and horizon-scanning about consumer issues that may become important in the future, especially in relation to vulnerable consumers
- Consumer Focus Post Northern Ireland will be transferred to CCNI, when a suitable legislative vehicle is available;
- The Trading Standards Institute will be responsible for most business-facing education from April 2013 under the authority of a new National Trading Standards Board;
- The Trading Standards Institute will be invited to establish a successor to the Consumer Code Approval Scheme from April 2013 on a self-funding basis;
- A National Trading Standards Board (NTSB) will be established for England and Wales, responsible for prioritising national and cross-local boundary enforcement. Trading Standards officers from NI will attend NTSB meetings. (This has now been set up);
- A small Regulated Industries Unit will be created by April 2013, initially within Consumer Focus, but moving to Citizens Advice in 2014. It will cover energy and postal services in GB, plus water in Scotland. Its role will be technical and involve working with regulators, companies and policy-makers.

2.16 A Strategic Intelligence, Prevention and Enforcement Partnership will be established, with membership from a new Competition and Markets Commission, the Regulated Industries Unit, the NTSB and Citizens Advice. Its role will be to share intelligence, identify future issues that could adversely affect consumers, and agree priorities for enforcement, information and education.

3. REVIEW OF THE EFFICIENCY AND EFFECTIVENESS OF CONSUMER COUNCIL FOR NORTHERN IRELAND (CCNI)

3.1 In October 2012, DETI commissioned an independent review of the efficiency and effectiveness of the CCNI. The purpose of this review was to ensure that the consumer advocacy role in Northern Ireland is:

- delivered by the most appropriate body or bodies;
- structured and positioned correctly within Government or otherwise;
- operating efficiently and effectively; and,
- fit for purpose in moving forward with the Executive's consumer and wider economic aims.

3.2 The review took account of the changing consumer landscape in Great Britain, and the views of a wide range of relevant organisations and bodies (stakeholders) with an interest in consumer representation issues in Northern Ireland.

3.3 The views of thirty stakeholder organisations were sought as part of the independent review of the CCNI. These included Assembly Committees, Government Departments and funded bodies, utility companies, regulators, advice bodies, and interest groups with an interest in consumer issues in Northern Ireland. Their views were sought on the following:

- CCNI's delivery of its objective, and its past and current performance;
- Relationships with CCNI
- CCNI's responsiveness
- CCNI's structures and remit
- Options for future consumer representation in Northern Ireland.

Performance of CCNI

3.4 The annual expenditure of CCNI has remained steady at around £2.6m per annum over the 2008/09 to 2011/12 financial years. Staff numbers have also remained stable at 47 [Full Time Equivalents]. CCNI has by and large met all its performance indicators in this period, with the exception of the 2009/10 financial year, when CCNI received a Qualified Audit report relating to historic salary overpayments amounting to £231,000. Satisfactory steps have since been taken to regularise this position.

3.5 Stakeholders described CCNI as a well informed and enthusiastic advocate of consumer interests, a role to play in speaking for customers. However there was a view that CCNI needed more technical competency. Concern was expressed that CCNI's complaints service was compromised by "its consumer advocacy and consumer advice roles, and that customers and service providers would be better served if these functions were separated out.

- 3.6 Some stakeholders believed that consumers had alternative means of expressing their views and making complaint, and that there was duplication with the roles exercised and services provided by other advice bodies operating in Northern Ireland.

Enquiries and Complaints

- 3.7 One of the CCNI's core functions is dealing with consumer enquiries and complaints. CCNI has a statutory duty to offer advice and assistance to consumers and to investigate their enquiries and complaints about transport, natural gas, electricity, coal and water. CCNI also offers a signposting service to consumers who contact it about issues outside of these areas.
- 3.8 CCNI's Enquiries and Complaints Report for 2011-12 states that 4451 consumers contacted CCNI for help, and CCNI "helped to put nearly £238,000 in consumers' pockets through refunds, goodwill payments and reimbursements". The Council's website had 148,000 hits during 2010/11, up from 79,000 in 2008/9 and 104,000 in 2009/10. The number of requests, complaints and enquiries received by the Council has remained fairly steady over the past six years, with a peak of 5372 in 2008/9.

Table 1: Summary of Requests, Complaints and Enquiries 2006 -12

	General requests	Complaints and Enquiries	Total
2006-7	1730	2464	4194
2007-8	2111	2462	4573
2008-9	2693	2679	5372
2009-10	2466	1900	4366
2010-11	1852	2630	4482
2011-12	1740	2711	4451

- 3.9 Of the 4451 contacts, 1740 were general referrals and requests for information. Of the remaining 2711, 2288 were enquiries. Only 212 were Stage 2 complaints, where the consumer is not satisfied with the service provider's response or has not received a response. A further 67 were Stage 1 Investigations, where the consumer has not yet contacted the service provider but CCNI decides to act on his/her behalf, for example in situations where the consumer is elderly or vulnerable. Of the 212 Stage 2 complaints, 134 (63%) related to Electricity or Water.

- 3.10 Stakeholders consulted during the review of CCNI expressed the view that there were not enough Stage 2 complaints to justify funding CCNI to handle them, and that CCNI was slow on occasion to clear them. Concern was also expressed regarding CCNI's technical competence, both in gathering information and in interpreting it.

Relationships/Responsiveness

- 3.11 CCNI maintains a high media profile. Its consumer surveys show the public is generally aware of the Council, but it recognises that it needs to do more to reach vulnerable consumers, and this is set out well in its Outreach Strategy.
- 3.12 As part of the process of developing its Corporate Plan 2011-15, CCNI undertook a consultation exercise with a range of interested parties from the public, private, voluntary and community sectors, as well as political representatives and staff members. The purpose was to gauge views on a range of topics, including the effectiveness of the Council. The consultation consisted of a main survey of 125 representatives (although this included 34 CCNI staff members), an interactive workshop with 27 delegates, and consultation with 26 individuals. Respondents were asked whether they were aware of the remit or existence of CCNI:
- 98% were reported as aware or very aware of CCNI's remit;
- 71% felt that NI consumers were aware or very aware of the existence of CCNI;
- 20% felt that NI consumers were not very aware of CCNI's existence.
- 3.13 CCNI has responded to the findings of this consumer research and some other work by producing an Outreach Strategy 2011-15 to focus on hard to reach audiences, particularly vulnerable consumers. These were identified as:
- Low income consumers
 - Older people
 - Young people and students
 - People with disabilities
 - Those lacking in confidence in the internet
- 3.14 CCNI has set itself a number of targets to be achieved over the next four years including increased numbers of contacts in at least five District Council areas that are currently below average, greater awareness of consumer rights among vulnerable consumers, and a 5% increase in levels of awareness of CCNI's role and services.

- 3.15 Stakeholders felt that CCNI was generally responsive, but that it was important for CCNI to retain a focus on its remit and to maximise this in relation to its particular areas of expertise. They also felt that CCNI needed to ensure that its views and interjections were underpinned by a strong, defensible evidence base.

Structures and Remit

- 3.16 Stakeholders stressed that the independence of the consumer representation role was essential to protecting the interests of consumers, and in terms of gaining and maintaining consumer trust. The merits of a single body working across a range of markets, and one which also combines complaints and representation, were also highlighted. Attention was drawn to Section 24 of the Consumer Estate Agents and Redress Act. Section 24 gives significant legal powers to Consumer Focus in Great Britain to gather information from companies in the furtherance of its work in the consumers' interest, and whether similar powers should be available in Northern Ireland. The Westminster Government intend to make these powers available to the Citizens Advice service in GB.

4 OPTIONS FOR FUTURE DELIVERY OF CONSUMER REPRESENTATION IN NORTHERN IRELAND

4.1 Having considered the finding of the independent review of the efficiency and effectiveness of CCNI, DETI wishes to consult on the most appropriate model for the future delivery of consumer representation in Northern Ireland in the 21st century. Views are sought on the following three options:

- continuation of the current CCNI model of a non-departmental public body to represent the consumer;
- the establishment of an independent consumer representative body outside government; and,
- the abolition of the CCNI and transfer of the consumer representation role, including the regulated industries role, to an existing non-government advice body/bodies.

Option 1: Continuation of Arm's Length Body Status.

- 4.2 The review has concluded that CCNI, as a Non Departmental Public Body, has operated effectively and has been responsive to customers. However, the context within which a Non Departmental Public Body (NDPB) was established in 1985, and within which CCNI has operated, has changed significantly in the intervening period. The political and consumer landscape has changed enormously, with locally accountable government now in place, the existence of numerous local and regional advice bodies, a Utility Regulator exists to protect consumer interests in energy and water, Northern Ireland has an effective Trading Standards service, and there is much greater retail competition on the High Street.
- 4.3 There is also an inherent tension in the fact that CCNI is an Arm's Length Body funded by the Executive, while its principal activities are to scrutinise and challenge Executive policies. CCNI jealously guards its independence, which it considers to be critical to the effective discharge of its consumer representation role. However, as an Arm's Length Body funded by the Executive, CCNI is not independent of its funding and sponsoring department, DETI, or of the Executive in general.

Option 2: The Establishment of an Independent Consumer Representative Body outside Government.

- 4.4 The establishment of CCNI as a self-financing consumer representation body outside government would address the independence issues and potential conflicts of interest that are present in the NDPB model. This would require CCNI to identify alternative sources of funding, and in doing so, to compete for that funding and the delivery of services with other existing advice bodies operating in the consumer field. This may require a rationalisation of services and functions to avoid overlap and duplication, and to remain cost-effective and

viable. It would also entail set-up costs for the new organisation. This option would require legislative change.

Option 3: Abolition of CCNI and Transfer of Consumer Representation Role to Another Body.

- 4.5 The changing consumer landscape over the course of the almost three decades since CCNI was established in 1985 has seen a range of bodies, organisations and political structures assume many of the consumer representation and watchdog roles that CCNI was set up to deliver. These include the Northern Ireland Assembly and its scrutiny committees, High Street advice bodies such as the Citizens Advice Bureau and Advice NI, the Trading Standards Service, and the Utility Regulator. The need that existed in 1985 has been significantly addressed, and much greater competition on the high street and greater levels of consumer awareness raise questions regarding the continued need for a government funded consumer representation body.
- 4.6 In Great Britain, the consumer representation role has been transferred to the Citizens Advice Bureau, and no consumer representation NDPBs or Arm's Length Bodies remain in place. In Northern Ireland, research and lobbying on consumer representation issues is currently being undertaken by other advice bodies, in addition to CCNI. The level of complaints being handled by CCNI is small, and this role could be transferred to another body. The statutory advice and complaints handling roles currently exercised by CCNI for a number of NI and GB departments and agencies, such as the Department of Transport, Civil Aviation Authority, Post Office, and Foods Standards Agency, could be exercised by other advice bodies, as is the case in GB.
- 4.7 However, complete abolition of CCNI would not be a viable option in Northern Ireland, as CCNI provides certain services in relation to the regulated industries which are currently not delivered by any other body, nor do the skills exist in those bodies to discharge these roles. Therefore, if CCNI's consumer representation role were to be abolished, a transfer of resources, skills, and functions to an existing advice body would be required to ensure that this role continues to be discharged.
- 4.8 This option would also require legislative change.

5. IMPACT ASSESSMENTS

- 5.1 The Department has considered the impact of the options set out in this consultation paper in relation to a number of key groups.

Regulatory Impact

- 5.2 The Department has conducted a screening exercise to assess the impact of this consultation which resulted in the Regulatory Impact Assessment (RIA) being screened out.

Impact on the Equality Groups under Section 75 of the Northern Ireland Act 1998

- 5.3 The Department is required, under Section 75 of the Northern Ireland Act 1998, to have due regard to the need to promote equality of opportunity between persons of religious belief, political opinion, racial group, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without.
- 5.4 Without prejudice to these obligations, the Department is also required, in carrying out its functions, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.
- 5.5 The Department conducted a screening exercise to assess the impact of the options set out in this consultation paper on the Section 75 groups. The Department has concluded that each option should have no significant implications for equality of opportunity or differential impact on any of the Section 75 groups.

Impact on Rural Communities and Areas

- 5.6 The Department has considered, as part of the process of rural proofing new policies, how the options in this consultation document might impact on rural areas or communities. It has been concluded that there is no significant differential impact and that each option will impact on Northern Ireland as a whole.