

**Consumer  
Futures  
Unit**

# Leading by example: A principled journey through regulation





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Electronic: ISSN 2398-6220

Hard copy: ISSN 2398-6212

Consumer Futures Unit publication series: 2017/18 – 15



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# About us

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The Consumer Futures Unit puts consumers at the heart of policy and regulation in the energy, post and water sectors in Scotland. Part of Citizens Advice Scotland, we research and gather evidence, which we use to improve outcomes for consumers.



## CONSUMER FUTURES UNIT PURPOSE

Providing a voice for consumers in Scotland on energy, post and water

**By working under a framework of internationally recognised consumer principles, we seek to deliver strategic outcomes through a combination of:**

- ▶ Gathering and sharing evidence
- ▶ Developing consumer focused policy
- ▶ Improving consumer experience through advocacy

## OVERARCHING CONSUMER PRINCIPLES

Information | Access | Choice | Redress | Safety | Fairness | Representation

## STRATEGIC OUTCOMES

- ▶ Markets are shaped around consumers
- ▶ Services are accessible to consumers regardless of their income or location
- ▶ Consumer principles are at the heart of government policy and regulation
- ▶ Utility products and services deliver the right outcomes for consumers



# Executive Summary

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**The work of the CFU – and its predecessor bodies – has long been guided by seven consumer principles, developed over time by consumer organisations based in the UK and further afield. When applied to regulation, principles-based approaches enable an organisation to consider its products and services from a consumer perspective.**

These principles can then be used to ask important questions about consumer impact and engagement, and how products and services should look and feel to the consumer.

The CFU considers that more consumer-focused policy and practice will emerge if consumer principles are more widely understood and adopted by regulators and service providers. However, the CFU is also of the view that there is a general lack of awareness of consumer principles in the regulated industries, meaning that they are often not applied in the development of policy, or in the delivery of services. Additionally, consumer focused frameworks applied by regulators and service providers are not always transparent, in terms of their dealings with consumers, despite them all (almost universally) claiming to be consumer focused to one degree or another.

To better understand how consumers are currently considered during the

formulation of policy and practice, the CFU commissioned independent research from Purple Market Research that would identify which mechanisms, if any, that regulators and service providers use to ensure their policies and practices are designed around consumers. The research aimed to determine the extent to which there is potential for using consumer principles to increase the use of consumer-centric regulation and business practices so that more positive consumer outcomes are achieved.

The Technical Summary Research Report, which is available separately, summarises the research findings in full. In this accompanying Insight Report, key policy insights to emerge from the research are outlined. It does this by plotting the journey towards a greater emphasis on consumers in the regulated industries of energy, water and postal services and the role of the CFU's framework of consumer principles in supporting more understanding of these approaches.

## Executive Summary

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The rationale for each of the key findings and recommendations are set out in the report that follows. The research supports the CFU's position that better consumer outcomes will result if consumer principles are more widely understood and adopted by regulators and service providers. The research has also shown that there has been a general move towards a greater focus on consumers in the regulated industries of energy, water and postal services, though the extent of this varies within and between sectors, and in different locations.

Nevertheless, despite welcome progress, much more needs to be done if the regulated industries are to be truly focused on the consumers they serve. By identifying the existence and application of consumer principle frameworks in the UK regulated industries of energy, water and postal services, this research is an important first step in that process.

There are six key findings, or policy insights, to emerge from the research:

### **Key Finding 1**

Good progress has been made on the journey from a rules-based approach towards a greater focus on consumers, but more could be done to strengthen a commitment to putting consumers at the heart of regulation in the energy, water and postal services sectors, such as voluntarily going beyond regulatory requirement.

### **Key Finding 2**

In complex regulated markets the benefits and opportunities likely to arise from a greater focus on consumers' needs and wants will have many layers. Principles-based regulation is simpler for regulators, less burdensome for businesses and easier for consumers to engage with.

### **Key Finding 3**

Principles-based regulation can lead to greater transparency and accountability, which in turn can foster greater consumer confidence and trust in the regulated industries.

### **Key Finding 4**

The extent of progress towards principles-based regulation varies considerably within and between sectors, and in different locations. Regulators and service providers should evaluate how they currently deal with consumers and answer key questions about how consumer-focused they are.

### **Key Finding 5**

There are always going to be limits to a 'one size fits all' approach to applying principles to regulated industries, particularly as there is little appetite for a single set of harmonised principles being developed that could be applied across all regulated sectors.

### **Key Finding 6**

The CFU's framework of consumer principles can help assess the consumer-focused claims of other organisations. However, it cannot act as a 'silver bullet' to address all of the regulatory problems or issues that might arise in each sector.

## Executive Summary

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These key findings have resulted in six recommendations:

### **Recommendation 1**

Each sector should take the time to reflect on how they currently deal with their consumers, and consider if they need to go further so that their customers' needs and wants are at the heart of everyday decision making and business practices, leading to improved consumer outcomes.

### **Recommendation 2**

Prescriptive rules and principles need to work together, at least during a transition from the former to the latter, for improved consumer outcomes. Thereafter, we would expect rules to be applied only when it is appropriate to do so, as a subset of principles, to support the operation of the principle.

### **Recommendation 3**

Service providers in the regulated industries should publicly state their commitments to act in the consumer interest and follow these through with more consumer-oriented decision making and business practices.

### **Recommendation 4**

The CFU should explore the feasibility of commissioning follow-up research that can identify and test questions that could be the basis of a toolkit for organisations so they can assess how consumer-centric they are and how far along the journey towards adopting a set of fully-fledged consumer principles they are.

### **Recommendation 5**

Consumer-focused frameworks should be developed in the regulated industries that are tailored to fit the unique situations and circumstances of each sector and/or location.

### **Recommendation 6**

In the absence of consumer principles or any other framework in a particular sector or organisation the CFU framework can be used as a robust tool against which other consumer-focused approaches can be measured so that their progress on the journey towards a greater focus on consumers can be assessed.

## Introduction

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The Consumer Futures Unit (CFU), part of Citizens Advice Scotland, uses research and evidence to put consumers at the heart of policy and regulation in the energy, post and water sectors in Scotland. We work with government, regulators and business to put consumers first, designing policy and practice around their needs and aspirations.

To achieve these objectives, the CFU – and its predecessor bodies – have adopted seven consumer principles, developed over time by consumer organisations in the UK and further afield<sup>1</sup>. A principles-based approach to regulation enables an organisation to consider its products and services from a consumer perspective. These principles can be used to ask important questions about consumer impact and engagement, and how products and services should look and feel to the consumer.

Furthermore, an effective framework of consumer principles can help support the development of more consumer-focused policy and practice. Such an approach is not only in consumers' interests, but those of government, regulators and companies, for they increase the prospects of policies, services and products being successful. Additional benefits for industry are likely

to arise as rather than applying regulatory rules to how an organisation delivers products and services to consumers, which can simply be an operational function or mere focus on compliance, the application of principles is more likely to result in the generation of innovative strategies designed to deliver positive outcomes for consumers.

Principles-based approaches to regulation such as the CFU's framework, as well as other similar approaches like Ethical Business Regulation<sup>2</sup>, have been successfully implemented across a diverse range of markets, including the legal, financial and health sectors. This indicates a wider trend in the current landscape where regulation has in general been moving away from a predominant focus on prescriptive rules towards greater emphasis on principles.

All of the work of the CFU is underpinned by a framework of seven consumer principles – summarised in Table 1. Not only are these principles tried and tested, they are also well-established and recognised internationally by consumer groups and organisations. The CFU uses the principles day-to-day for assessing consumer focus and as a framework within which policy is developed and communicated.

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<sup>1</sup> What are understood today as consumer principles can be traced back to a 1962 speech given by John F. Kennedy to the US Congress in which he outlined four rights, or 'Kennedy Principles': the right to choose; to be informed; to safety; and to be heard. Over time these were further added to following sustained campaigning by Consumers International, and others, and incorporated additional consumer rights related to: redress, safety & quality, access to goods & services and the promotion of sustainable consumption. The United Nations' Guidelines for Consumer Protection gave legitimacy to the whole notion of "consumer rights", and provided the support and guidance necessary for developing consumer protection legislation in nations around the world. It is from these separate, but interrelated, developments that the consumer principles adopted by the CFU have their roots.

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<sup>2</sup> Ethical Business Regulation is a model of business regulation developed by Professor Chris Hodges at Oxford University. It places the onus on suppliers to take responsibility for their treatment of customers. It has received interest from Scottish and UK governments, the European Commission and various industry regulators, including the Water Industry Commission for Scotland.

## Introduction

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**Table 1 – The Consumer Principles Framework of the CFU<sup>3</sup>**

### Consumer Principles



The CFU considers that better outcomes for consumers will result from principles being more widely understood and adopted by regulators and service providers. This is because more consumer-focused policy and practice will emerge.

However, the CFU also believes that there is a general lack of awareness of consumer principles in the regulated industries, meaning that they are often not applied in the development of policy or the delivery of services.

<sup>3</sup> Martyn Evans (n.d.) “Underpinning our consumer policy analysis”. A paper for Consumer Focus Scotland (CFS), adapted from a CFS board paper written by Philip Cullum (2009).

## Introduction

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In addition, it is not always clear how transparent regulators and service providers are in their dealings with consumers, despite them all (almost universally) claiming to be consumer focused to one degree or another. To better understand how consumers<sup>4</sup> are currently considered during the formulation of policy and practice, the CFU commissioned research that would identify which mechanisms, if any, regulators and service providers use to ensure their policies and practices are designed around consumers. The research also aimed to determine the extent to which there is potential for using consumer principles to increase the use of consumer-centric regulation and business practices so that more positive consumer outcomes are achieved.

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<sup>4</sup> The terms ‘consumer’ and ‘customer’ are both used in this report depending on the context. For the avoidance of doubt, the CFU uses the term consumer to refer to a person who uses or consumes a product or service. A customer on the other hand is a person who purchases goods or services, but may not necessarily consume them. A customer is a consumer, but a consumer may not necessarily be a customer.

This Insight Report, which accompanies the Technical Summary Research Report<sup>5</sup>, summarises the research and outlines the key findings and policy insights to emerge. It does this by plotting the journey towards a greater emphasis on consumers in the regulated industries of energy, water and postal services and the role of the CFU’s framework of consumer principles in supporting more understanding of these approaches. The report ends with an overview of key conclusions and recommendations arising from the research on the existence and application of consumer principle frameworks in the UK regulated industries of energy, water and postal services.

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<sup>5</sup> Purple Market Research “Role of Consumer Principles in the UK Energy, Water & Postal Industries”. Research conducted for the Consumer Futures Unit.

## The Research

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In this chapter, the research and its methodology is briefly summarised. The CFU commissioned Purple Market Research, an independent research company, to undertake research on how consumers are currently considered during the formulation of policy and practice in the regulated industries.

The objectives of the research were to identify which mechanisms, if any, regulators and service providers currently use to ensure their policies and practices are designed around consumers. In addition, the research also aimed to identify the extent to which there is potential for using consumer principles to improve regulatory and business performance so that more positive outcomes for consumers are achieved.

The research was undertaken from January to March 2017. The research was conducted using a three-fold methodology:

- i. a review of data and intelligence on consumer principles held within the CFU, including policy documents and previous research;
- ii. a meta-analysis of information gathered from regulators and service providers that is available in the public domain; and
- iii. qualitative interviews with forty regulators, service providers and other consumer organisations representing a cross-section of the energy, water and postal sectors. The interviews explored in greater detail the extent to which consumer principles are the basis for planning and operations in such organisations.

The Technical Summary Research Report summarises the research findings in full. In the remainder of this accompanying Insight Report, the key findings and policy insights to emerge from the research are outlined.

## Key Findings and Analysis

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In this chapter, the key findings and analysis are presented. The first section considers the role of consumer-focused frameworks in the regulated industries. This is followed by an examination of the key stages and drivers in the adoption of consumer principles frameworks. The final part of this chapter assesses progress on the journey towards consumer-based regulation.

### The role of consumer-focused frameworks

In considering the role of consumer-focused frameworks, a range of policy tools are available to authorities in the regulated industries that have a particular responsibility for consumer protection. The Organisation for Economic Co-operation and Development (OECD) has characterised these tools as falling into one of two broad types: demand- or supply- side measures<sup>6</sup>.

Examples of demand-side measures typically include consumer empowerment tools that seek to educate and raise consumers' awareness, or provide cooling-off periods when, for example, consumers sign up to new agreements. Supply-side measures on the other hand seek to modify the behaviour of service providers, who are encouraged to act in ways that maximise outcomes for consumers. Clearly it is complementary to look at both together, however this report – and its associated research – are interested primarily in supply-side measures, as defined by the OECD.

There are generally two main approaches to regulation based on supply-side measures. The first is regulation governed by prescriptive rules, including licensing,

prohibitions and dispute resolution. The second is regulation that places the emphasis on service providers to develop consumer-focused approaches when dealing with their customers. This “moral suasion” is essentially what is meant by principles-based regulation.

The successful implementation of regulation based on principles has been demonstrated in a range of diverse markets, including the legal<sup>7</sup>, financial<sup>8</sup> and health<sup>9</sup> sectors. This is illustrative of a wider trend, which has seen the regulated industries starting to move away from a predominant focus on rules towards principles.

In relation to outcomes, several advantages of principles-based regulation over more traditional, rules-based, approaches were identified in the research. It is usually the case that rules-based regulation requires service providers to meet minimum standards, which can, in some instances, include maximising consumer benefits and protecting consumer interests. However, in practice, it rarely does to an adequate standard. As an alternative, principles-based regulation places consumers at the heart of regulation so that consumer benefits and protections are built in from the start. By maximising consumer benefits and protecting consumer interests, principles-based regulation is therefore much more likely to lead to regulation that

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<sup>6</sup> OECD (2010) “Consumer Policy Toolkit”.

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<sup>7</sup> The Legal Services Consumer Panel in England and Wales has recommended a set of seven consumer principles be adopted as a “simple tool for regulators to help them think about the consumer interest in a structured way.”

<sup>8</sup> The Financial Conduct Authority requires UK financial service providers to show that fair treatment of their customers is “at the heart of their business model”. The Treating Customers Fairly framework is based on six consumer ‘outcomes’, or principles that should guide business practices.

<sup>9</sup> Healthwatch England is the national consumer champion in health and care in England, which operates in line with a set of eight consumer principles formulated from feedback collected from the public.

## Key Findings and Analysis

is not only briefer and simpler, but also easier for consumers to understand and engage with.

In addition, with principles-based regulation the regulator does not need to understand every technical detail of the market they are responsible for. Nor does regulation have to cover every option or eventuality to ensure there are no gaps in coverage or loopholes that can lead to consumer detriment when things go wrong.

However, having said that, some concerns with a principles-based approach have been identified. In particular, the vagueness of principles-based frameworks has been singled out as potentially problematic. As has the perception that principles-based approaches can be overly subjective,

making it difficult to have consistent standards.

Nevertheless, despite concerns, the evidence has shown that when used correctly, principles-based approaches can guide the formulation of policies and practices to minimise risks beyond rules-based prescriptive measures. Indeed, in the range of sectors that have successfully implemented principles-based approaches, (e.g. the legal, financial and health sectors), better consumer outcomes have resulted from a greater focus on consumers in areas including communications, planning and delivery of information and services – see Table 2.

**Table 2 – Consumer principles in other sectors compared with the CFU framework<sup>10</sup>**

	Legal Services Consumer Panel	FCA ‘Treating Customers Fairly’ framework	Healthwatch consumer principles
Access	✓		✓
Choice	✓	✓	✓
Safety	✓		✓
Information	✓	✓	✓
Fairness	✓	✓	
Representation	✓	✓	✓
Redress	✓	✓	

✓ Indicates a match with the CFU consumer principles

<sup>10</sup> Technical Summary Research Report, page 27.

## Key Findings and Analysis

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When it comes to the sectors directly relevant to the CFU's remit, the evidence suggests that the energy, water and postal markets are on a journey towards a greater focus on consumers. There has been some movement away from rules-based regulation towards more service-oriented approaches, though the extent of this varies between sectors and locations.

There are plenty of examples of this variation across the energy, water and postal sectors. For instance, the UK regulated postal sector continues to rely heavily on prescriptive rules for underpinning business decisions and everyday practices. That said, the potential value of a greater focus on consumer needs and wants is acknowledged by Ofcom, Royal Mail and service providers in the non-regulated postal sector. At the other end of the spectrum is Ofgem's longer term commitment to relying more on enforceable principles for regulating the Great Britain retail energy market, rather than detailed rules about how suppliers should run their businesses. Similarly, in the England and Wales water sector, Ofwat has set mandatory expectation for suppliers to go beyond legal requirements.

However, in both the GB energy and England and Wales water examples, it is obvious that a greater focus on principles remains largely a regulatory requirement, to be carried out by service providers. The organisation that seems to have gone furthest beyond minimum regulatory requirements is Scottish Water, which has adopted a set of values voluntarily. This raises important, but as yet unanswered, questions for the CFU: does voluntary, rather than mandatory, adoption of a principled approach strengthen consumer outcomes and demonstrate a stronger embrace of consumer focused culture?

Importantly, however, while progress in the transition to a greater focus on consumers varies, it has not stemmed only from the influence of regulators; the role of consumer bodies and service providers has also been important. Nor has the transition occurred in isolation, but rather has emerged alongside wider moves towards 'lighter touch' regulation. For example, Ofgem's vision for the future of the energy retail market<sup>11</sup> sees principles-based approaches as "better regulation", which can encourage innovation and gives service providers greater autonomy to develop their own consumer-focused frameworks. This is a vital first step towards the adoption of principles that focus on consumers to support stronger outcomes.

### Key stages and drivers in the adoption of a consumer principles framework

In the regulated industries it is generally the case that changes to regulation are underway whereby the primary focus is no longer just about regulatory rules that can be used to demonstrate operational compliance. The provision of products and services is, therefore, increasingly consumer-oriented, strategic and often goes beyond minimum standards required by a regulator.

There is evidence of organisational cultures emerging within and across sectors that are strongly aligned with understanding consumers' needs and wants, and providing products and services to better meet their requirements. In addition, it is clear that organisations are increasingly putting consumers at the centre of strategic decisions and everyday business practices.

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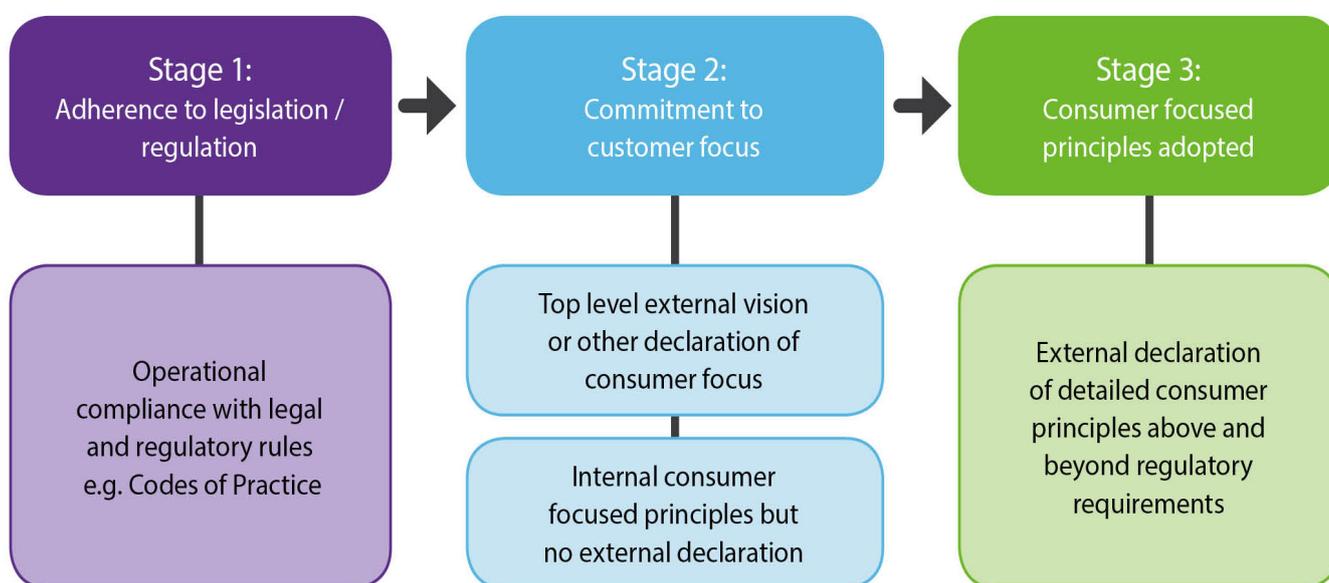
<sup>11</sup>[https://www.ofgem.gov.uk/sites/default/files/docs/the\\_future\\_of\\_retail\\_market\\_regulation.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/the_future_of_retail_market_regulation.pdf)

## Key Findings and Analysis

However, for this transition to be successful and long-term, it is essential that these are not just systemic, but cultural changes, driven by an appreciation of the way services and products appear to consumers.

The process of regulation moving away from being rules-based towards being more based on principles can best be thought of as a journey across three stages, as summarised in Figure 1:

**Figure 1 – Journey towards the adoption of a consumer principles framework<sup>12</sup>**



An important aspect of the journey detailed in Figure 1 is that the aim of the transition is not necessarily about replacing a set of rules with a set of principles. Rather rules and principles can often support each other as organisations seek to be more consumer-oriented in their decision making and in their dealings with their customers.

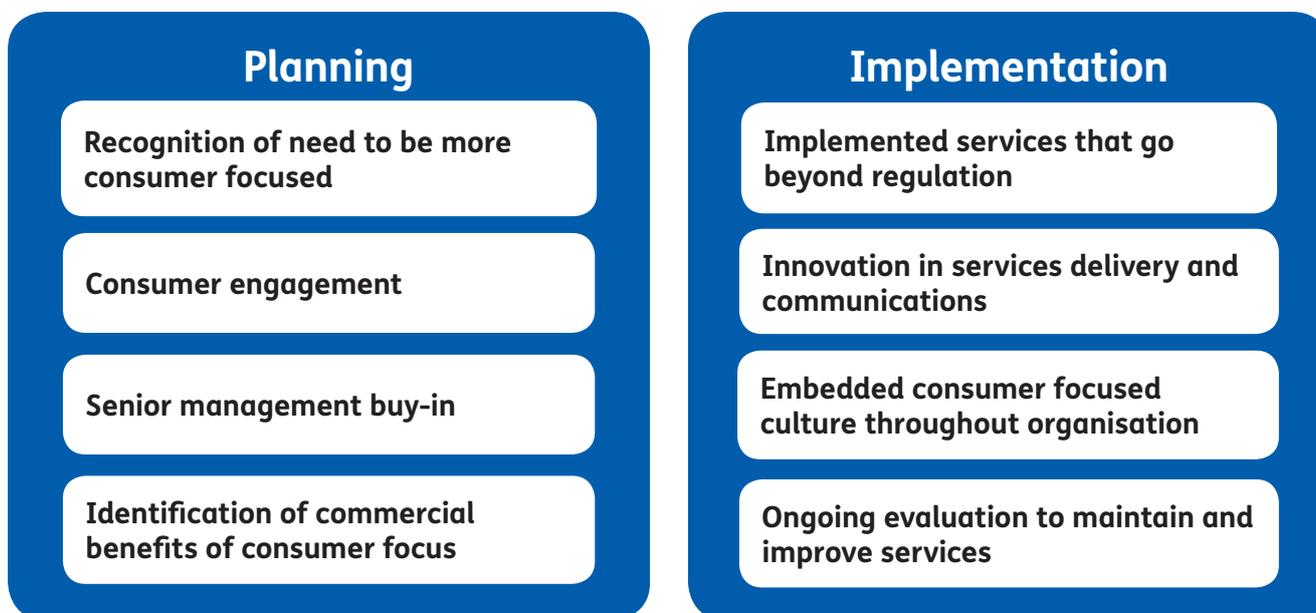
To make progress on the journey towards the adoption of consumer principles frameworks, there are two broad sets of characteristics organisations that have embraced principles tend to demonstrate. These are related to ‘planning’ and ‘implementation’ – see Figure 2.

<sup>12</sup> Technical Summary Research Report, page 75.

## Key Findings and Analysis

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Figure 2 - Typical Characteristics of a consumer-focused organisation<sup>13</sup>



The evidence has shown that consumer-focused organisations have, at some point, recognised their known or potential shortcomings in how they deal with and interact with their customers. In relation to both planning and implementation these organisations have typically addressed those shortcomings by engaging and consulting with their customers on their needs and wants. In doing so they have attempted to change their business practices and gone further than minimum legal or regulatory requirements they are required to meet. Treating consumers as genuine stakeholders in the organisations that serve them creates a feedback loop that can improve outcomes for consumers, businesses and regulators.

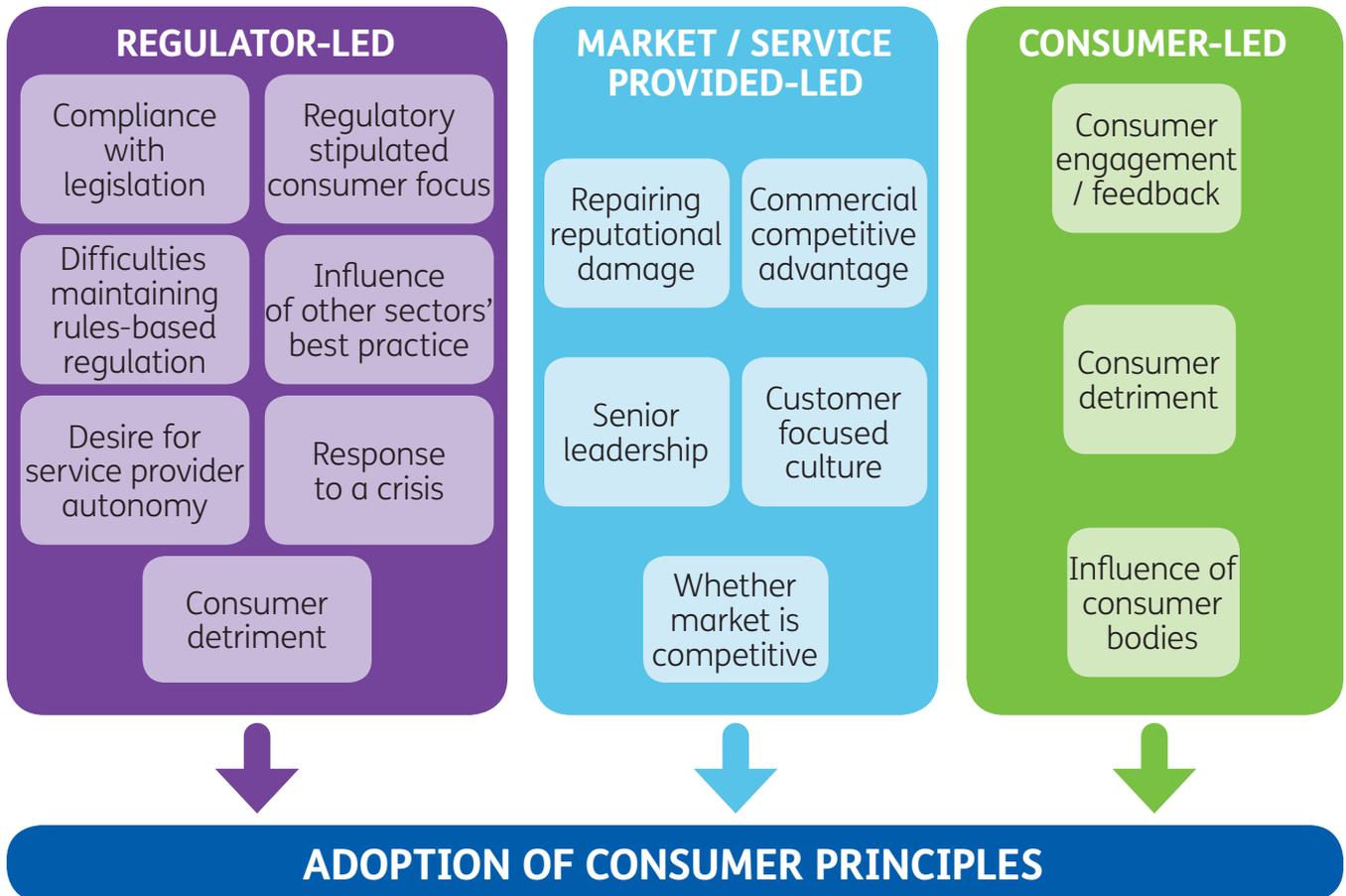
There are three main drivers likely to lead to the adoption of principles-based approaches to regulation and compliance, as summarised in Figure 3:

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<sup>13</sup> Technical Summary Research Report, page 77.

# Key Findings and Analysis

Figure 3 – Key drivers of the adoption of consumer principles<sup>14</sup>



Regulator-led drivers often arise out of the difficulties regulators face when maintaining prescriptive rules in complex markets. Drivers stemming from the market or service providers themselves often have their roots in businesses recognising their failure to adequately meet their customers' needs, or they may have identified commercial advantage over their competitors from being more consumer-focused.

Finally, the drivers that emerge from consumers include them wanting to engage with organisations that aim to put their needs and wants at the heart of their business practices, or they may emerge from consumer advocacy bodies arguing for improved consumer outcomes if organisations are to be more consumer-oriented. Box 1 summarises examples from the research of regulator, market and consumer-led drivers leading to the adoption of consumer principles.

<sup>14</sup> Technical Summary Research Report, page 76.

## Key Findings and Analysis

### Box 1 – Examples of regulator, market and consumer-led drivers<sup>15</sup>

<b>Regulator-led drivers</b>	The introduction of the Standards of Conduct in the GB energy market stemmed from the difficulty of maintaining prescriptive rules and a desire to put the onus on service providers to determine what a positive outcome is and how to achieve it, a need to address consumer detriment in the market due to poor customer satisfaction, a lack of transparency regarding pricing and the difficulty of changing supplier.
<b>Market-led drivers</b>	A key example of a market-led driver identified in the research is the development of a consumer-centric culture from within a service provider’s organisation, with the aim of achieving commercial advantage over its competitors.
<b>Consumer-led drivers</b>	The adoption of consumer principles is often influenced by consumer representative bodies (such as Citizens Advice, the CFU, the Consumer Council for Water and the Consumer Council for Northern Ireland), who all have well-established, prominent sets of consumer principles that underpin their work. These have, in turn, influenced the approach of regulators and service providers in how they deal with consumers.

Taken together these patterns lead to a conclusion that the transition to more consumer-focused sectors is far from straightforward or inevitable. However, in complex markets that have often developed over long periods of time and are difficult to regulate in the consumer interest with prescriptive rules alone, a principles-based approach may lead to simplified regulation for regulators, additional business opportunities for service providers, and improved outcomes for consumers.

#### Assessing progress on the journey towards consumer based regulation

To test the effectiveness of a consumer-focused framework, Purple Market Research proposed the development of a series of questions that can assess consumer-centricity<sup>16</sup>. Further work is necessary to assess the utility of such a toolkit. Nevertheless, if developed it

could help service providers assess how consumer-oriented they are and help the CFU, or regulators, assess how far along the journey the regulated industries are towards adopting more consumer-focused approaches.

As outlined earlier (page 13), the energy, water and postal markets are on a journey towards a greater focus on consumers, however the extent of this varies within and across sectors. Regulation in the UK has traditionally been based on regulators specifying licence conditions in terms of minimum standards that should be met if service providers are to demonstrate compliance. When it comes to dealing with consumers there is evidence that regulators have, to varying degrees, been able to encourage service providers to be more focused on their customers’ needs and wants. In some instances, this has involved continuing to set minimum standards and in others it has involved urging service providers to go further.

<sup>15</sup> Technical Summary Research Report, pages 76 & 77.

<sup>16</sup> Technical Summary Research Report, page 79.

## Key Findings and Analysis

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Indeed, all of the regulators and service providers consulted in this research claimed to be consumer-focused, either to meet regulatory requirements or voluntarily. However, in most instances this has emerged primarily from regulators, rather than from the market. As a consequence, while a greater focus on consumers is welcome, putting consumers at the heart of the regulated industries has, in most cases, become just another regulatory requirement. In this respect, it appears to operate like any other enforceable rule, rather than a genuine shift towards principles-based regulation or adopting more consumer-centric culture. It is common, therefore, for regulators and service providers to make the case that they are 'doing enough' to satisfy consumers' needs and wants because they can demonstrate that they are complying with a regulatory obligation or are voluntarily going beyond it.

Going further, however, where consumer principles do exist, it appears that how they are used by organisations and on what basis differs considerably. For instance, for some service providers guiding principles are only used internally, whereas for others they are used publicly and are externally-facing. The drivers for this decision are often pragmatic, with many service providers reluctant to make principles prominent to the public until they can be backed up by action. This brings into sharp focus the transparency of the journey taken by some organisations towards consumer principles-based approaches.

Many organisations function on untested assumptions about their customers. These preconceived views are often based on myths and legends about consumer needs and wants, rather than hard evidence. This may justify an organisational decision to not commit publicly to a stronger and more transparent consumer-based framework.

# Consumer Principles in the Energy, Water and Postal Sectors

In the previous chapter, key insights related to the role of consumer-focused frameworks in the regulated industries, and the stages and drivers in that process were outlined. However, given that the journey to principles-based regulation can be thought of as a continuum, with the distance travelled on that journey varying within and across sectors and by region, in this next chapter, the extent to which progress has been made in each of the energy, water and postal sectors is detailed.

## Energy sector

Of the three sectors coming under the CFU’s remit, the GB energy market is perhaps the most developed in terms of adopting consumer principles frameworks. Good progress has been made in moving from traditional models of regulation, based on prescriptive rules, to models based on enforceable general principles – see Table 3.

**Table 3 – Consumer principles in GB energy sector compared with the CFU framework<sup>17</sup>**

	E.ON	Scottish Power	Npower	Ovo Energy	Ecotricity	First Utility
Access						
Choice						
Safety						
Information	✓	✓	✓	✓	✓	✓
Fairness	✓	✓	✓	✓	✓	✓
Representation	✓	✓	✓	✓		
Redress	✓		✓	✓	✓	✓

✓ Indicates a match with the CFU consumer principles

This progress can be seen most clearly in Ofgem’s Treating Customers Fairly Standards of Conduct requirement<sup>18</sup> that energy suppliers treat their customers fairly and the Customer Charters developed by Northern Irish energy companies. However, while this has started to move the energy sector away from regulation based on prescriptive rules, arguably suppliers are still doing what the regulator has asked them to do, so they remain primarily regulator-led.

Despite being assessed as having come the furthest in developing consumer-focused frameworks, the energy industry is still in the early stages of ensuring that policy becomes practice. A widely held perception persists that energy companies are some of the most distrusted of the utilities<sup>19</sup>. This is part of the circumstances that led to the energy market being referred to the Competition and Markets Authority for investigation<sup>20</sup>.

<sup>17</sup> Technical Summary Research Report, page 40.

<sup>18</sup> <https://www.ofgem.gov.uk/publications-and-updates/new-standards-conduct-suppliers-domestic-consumers>

<sup>19</sup>[https://www.citizensadvice.org.uk/global/migrated\\_documents/corporate/attachment-2---summary-of-energy-trust-polling.pdf](https://www.citizensadvice.org.uk/global/migrated_documents/corporate/attachment-2---summary-of-energy-trust-polling.pdf)

<sup>20</sup><https://www.gov.uk/cma-cases/energy-market-investigation>

# Consumer Principles in the Energy, Water and Postal Sectors

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Ofgem has also attempted to respond to these poor reputational issues by recently implementing a stronger consumer-focused framework. So, while fairly clear frameworks exist for energy suppliers to work to, the supporting practice has not necessarily been developed to support it. This suggests that the industry has not yet reached the potential that the framework sets out to achieve.

There are multiple examples of good progress being made by energy regulators and service providers in being more consumer-oriented. However, there are gaps in service provision preventing many organisations presenting as truly consumer-focused. In particular, smaller energy suppliers and new entrants to markets could be going much further in their publicly stated commitments. This would involve them following the practice of larger energy suppliers whereby they publicly draw attention to their customer focus, which is followed through with decision making and business practices that are clearly stated and enacted in the consumer interest.

The CFU's annual **Energy Advice in Detail** report<sup>21</sup> highlights the ways in which the GB energy market continues to fail to meet the needs of consumers, with many facing ongoing problems in receiving the energy services they want and need. In 2015-16, the most prevalent energy issues that the Citizens Advice service in Scotland helped clients with were billing and metering issues, poor customer service and complaints, and the management of energy debt. While a greater emphasis on consumer outcomes should, in theory, negate these types of issues in the future,

it is principles-based frameworks that could provide regulators, service providers and consumer bodies with the focus and tools to help prevent problems occurring in the first place and resolve those that do arise in a timely manner, thereby improving outcomes for consumers.

Finally, and in keeping with a theme of 'more of the same', there is also significant potential for consumer benefit if consumer principles were placed at the heart of regulation in the fledgling district heating market<sup>22</sup> and in the day-to-day practices of energy distribution companies, which, as natural monopolies, have traditionally had less of a direct consumer-facing role beyond regulatory price controls<sup>23</sup>. The evidence has shown how placing consumers' needs and wants at the centre of these wider parts of the energy market may lead to better outcomes for consumers who have at times been poorly served by traditional approaches to regulation.

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<sup>22</sup><http://www.cas.org.uk/publications/different-rules-different-fuels-exploring-consumer-protection-district-heating-market>

<sup>23</sup>[https://www.ofgem.gov.uk/sites/default/files/docs/2013/03/price\\_control\\_explained\\_march13\\_web.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2013/03/price_control_explained_march13_web.pdf)

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<sup>21</sup><http://www.cas.org.uk/publications/energy-advice-detail-2015-16>

# Consumer Principles in the Energy, Water and Postal Sectors

## Water sector

Across the UK, the water sector is currently at an early stage in the journey towards consumer-focused regulation based on consumer principles.

The evidence has shown that water service providers are aiming to be more consumer-focused as they transform from engineering-oriented organisations into customer service ones – see Table 4.

**Table 4 – Consumer principles in UK water sector compared with the CFU framework**

	Scottish Water	Severn Trent	Wessex Water
Access	✓		✓
Choice			
Safety	✓	✓	✓
Information		✓	
Fairness	✓	✓	✓
Representation	✓		
Redress			

✓ Indicates a match with the CFU consumer principles

Despite progress across the UK water<sup>24</sup> sector, it is clear that the extent to which the sector has engaged with consumer principles varies by nation. For example, Scottish Water’s aspirational statement of ‘six pillars’<sup>25</sup> articulates a vision that voluntarily goes much further than minimum standards and rules specified by regulators; and Ofwat has been working to ensure that service providers in England and Wales are more consumer-focused so that trust and confidence is fostered in the sector<sup>26</sup>.

However, much of the progress made to date has been inward facing; appearing to be largely top-down, with internal strategies, vision statements or sets of values. A more outward-facing approach would go beyond mere adherence to

legislation and/or regulatory rules or a simplistic commitment to a greater focus on consumers (see Figure 1). Central to this would be incorporating consistent and regular consumer consultation to inform policy and practice, as well as everyday business practices that place consumers at their heart.

In light of this, it is clear from the evidence that more could be done to move the UK and Scottish water sectors beyond merely stating a vision or making internal statements about organisational values. This would result in consumers’ needs, wants and aspirations being captured and placed at the heart of regulation. By being less top-down and driving change more towards consumer principles, water and sewerage companies can move away from being primarily about operational or engineering matters, to being much more about the quality and delivery of customer services, which will, in turn, lead to improved outcomes for consumers.

<sup>24</sup> Technical Summary Research Report, pages 48 & 58.  
<sup>25</sup> [http://www.scottishwater.co.uk/assets/about%20us/files/delivery%20plan/swdeliveryplan2010\\_15march2010.pdf](http://www.scottishwater.co.uk/assets/about%20us/files/delivery%20plan/swdeliveryplan2010_15march2010.pdf)  
<sup>26</sup> <http://www.ofwat.gov.uk/about-us/vision/>

# Consumer Principles in the Energy, Water and Postal Sectors

## Postal sector

The UK postal sector can really only be viewed as being at the very start of the journey from rules-based regulation to regulation based on principles – see Table 5. Where principles do exist, these are

usually internal documents only used for considering policy and processes, with almost no prominent publicly declared statements made on how consumers should be dealt with and treated.

**Table 5 – Consumer principles in UK postal sector compared with the CFU framework<sup>27</sup>**

	Ofcom internal principles (regulated market)	Royal Mail internal principles
Access	✓	
Choice	✓	
Safety		
Information		
Fairness	✓	✓
Representation		✓
Redress	✓	✓

✓ Indicates a match with the CFU consumer principles

There is little to suggest that there is appetite in either the regulated or unregulated postal sectors to move towards the full adoption of consumer principles frameworks. In the regulated postal sector, there is a prevailing view that the rules-based regulation of Royal Mail, supported by an internal customer focus, is sufficient to meet both regulatory standards and the needs of consumers. While the unregulated postal sector sees the value in a greater focus on consumers, this is complicated by the nature of the relationship between the shipper and recipient and delivery firms acting as the ‘middleman’ in that transaction.

However, the complexities of both the regulated and unregulated postal sectors

aside, a greater focus on consumers’ needs and wants does have merit. While neither the energy nor water sectors have established clearly defined sets of principles that are focused on consumers, they are moving towards this and are further along the journey than the postal sector. It may take some time, therefore, before a fully-fledged set of consumer principles are adopted by Ofcom or postal service providers. However, by encouraging a greater focus on consumers, progress can be made towards a more consumer-oriented postal sector that can improve outcomes for consumers.

In general then, despite variations across the energy, water and postal sectors there are very few examples of organisations having fully embraced the notion of consumer principles and embedded these

<sup>27</sup> Technical Summary Research Report, pages 69.

# Consumer Principles in the Energy, Water and Postal Sectors

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across the organisation at all levels of planning, operations and communications. However, having said that, organisations in all three sectors have demonstrated some ambition to moving toward that goal.

## The role of the CFU framework

At the start of this report it was stated that the consumer principles framework employed by the CFU is tried and tested and internationally recognised as a good benchmark for assessing how consumer focused organisations actually are. As a result, some regulators and service providers see the benefit of using, or at least modifying, an established framework, such as the principles employed by the CFU, which have withstood the test of time.

There is, however, little appetite from regulators and service providers for a harmonised set of principles being developed that could be applied across all regulated sectors. The prevailing view here is that it should be up to each sector and in each location to find its own solutions to meet that sector's unique needs and circumstances.

Given that the CFU's framework, or something very similar, has been applied successfully across a range of diverse markets illustrates well the benefits of this kind of approach. It also demonstrates its usefulness to assessing consumer focus and informing policy development. The CFU framework is, therefore, a robust tool, against which other consumer-focused approaches can be measured.

While the range and number of consumer principles identified in each of the energy, water and postal sectors varies, it is the UK energy sector that evidences the greatest match with the CFU model. This can be largely attributed to the Treating

Customers Fairly framework used in the GB energy sector and the Customer Charters developed by Northern Irish energy companies. However, energy companies are still consistently mistrusted by the public in consumer satisfaction surveys<sup>28</sup>. It is essential, therefore, that questions are asked about how genuinely consumer-centric energy companies are, particularly given that much of the progress made has come from the direction of regulators, and what more is required to improve consumer confidence in the market.

When it comes to the UK water and postal sectors, there is some degree of match with the CFU's framework, however, the extent of this is much lower than that found with the energy sector. The exception to this is Scottish Water, whose vision statement of 'six pillars', sets out a clear ambition to be more focused on consumers that goes further than minimum standards and rules specified by regulators. In general, the patterns in the water and postal sectors indicate that frameworks, where they exist, may be less robust in those sectors and could be further improved or added to. However, persistently high satisfaction rates in both the water<sup>29</sup> and postal sectors<sup>30</sup> in Scotland could, potentially, indicate a lack of strong evidence for a framework in those sectors.

Across each of the energy, water and postal sectors it is almost universally claimed that the organisations making up those sectors are striving to be more consumer-focused.

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<sup>28</sup>TNS (2016) "Consumer engagement in the energy market since the Retail Market Review 2016 Survey Findings". Report for Ofgem.

<sup>29</sup>The Output Monitoring Group for the Scottish water industry indicates Scottish Water's customer satisfaction rate in 2015 was 92%. <http://www.gov.scot/Resource/0048/00486833.pdf>

<sup>30</sup>Ofcom's Communications Market report for Scotland indicates an overall satisfaction with Royal Mail in Scotland is 82%. [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0016/105145/soctland-post.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0016/105145/soctland-post.pdf)

## Consumer Principles in the Energy, Water and Postal Sectors

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However, how that is implemented differs significantly from the consumer principles framework employed by the CFU. Where a framework or vision statement exists, some of the CFU principles are often missing and there are a number of wider issues relevant to the regulated industries that are not covered by the CFU framework<sup>31</sup>. This may indicate the importance of the CFU periodically reviewing its framework to ensure the principles remain fit for purpose.

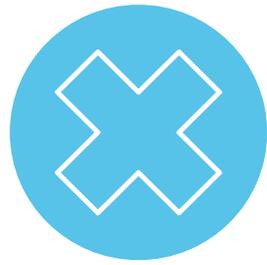
Reasons put forward for CFU principles being absent are that often these are implied, rather than stated explicitly, or some of the principles may not be wholly relevant in some markets or situations. Some regulators and service providers have also expressed concern that the CFU's framework may be too rigid, asking simple 'yes or no' questions, rather than reflecting real situations. However, the CFU's framework should not be seen as a 'silver bullet' that would address all situations and it is unlikely that all of the principles will be applicable in every case.

While it is up to each sector to decide which principles will be most appropriate for supporting a great focus on consumers, in the absence of any other principles-based framework, the CFU's model could help assess other organisations' claims to be consumer-focused, thereby helping improve outcomes for the consumers served by those markets.

To end this chapter, the CFU's model is robust and can be used in a variety of situations, particularly when a consumer-focused framework is not already in place. The framework used by the CFU is tried and tested and recognised internationally as an effective benchmark for assessing how consumer-focused organisations actually are. In the next and final chapter, the main conclusions and recommendations arising from the research are outlined.

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<sup>31</sup>These include: value for money, trust, honesty, confidence, environment and sustainability.



# Conclusions and Recommendations

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## Conclusions and Recommendations

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The CFU believes that better consumer outcomes will result if consumer principles are more widely understood and adopted by regulators and service providers. The evidence presented in this report has shown that there has been a general move towards a greater focus on consumers in the regulated industries of energy, water and postal services, though the extent of this varies within and between sectors and in different locations. In this final concluding chapter, six key findings and associated recommendations arising from the research are outlined.

### Key Finding 1

Good progress has been made on the journey from a rules-based approach towards a greater focus on consumers, but more could be done to put consumers at the heart of regulation in the energy, water and postal services sectors.

The transition from regulation based on prescriptive rules to regulation based on consumer principles can best be thought of as a journey that has been started in a wide range of regulated industries. This includes the energy, water and postal sectors. However, some of these sectors have made more progress than others. This may explain, in part at least, why public mistrust with some utility providers persists despite increased emphasis on consumer outcomes.

### Recommendation 1

Each sector should reflect on how they deal with their consumers and consider if they need to go further so that their customers' needs and wants are at the heart of everyday decision making and business practices, leading to improved consumer outcomes.

There are significant benefits likely to arise for regulators, businesses and consumers from a greater focus on customers' and/or service users' needs and wants. A compelling case has been made, therefore, for each sector to reflect on how they currently deal with their consumers. To go much further than minimum regulatory requirements may require organisations to make a conscious choice to change, so that their customers are put at the heart of everyday decision making and business practices.

### Key Finding 2

In complex regulated markets the benefits and opportunities likely to arise from a greater focus on consumers' needs and wants will have many layers to it. Principles-based regulation is simpler for regulators, less burdensome for businesses and easier for consumers to engage with.

Many of today's regulated markets are complex, so the opportunities stemming from a greater focus on consumers will have many layers to it. For regulators, it will lead to regulation that is simpler and easier to manage. For service providers, they will likely discover new business opportunities when compliance is perceived to be less burdensome and more focus is on the consumer interest. Finally, for consumers, regulation and services will be simpler and easier to understand, so they should be able to engage more effectively and confidently in the markets that serve them.

### Recommendation 2

Prescriptive rules and principles need to work together, at least during the transition, for improved consumer outcomes. Thereafter, we would expect rules to be applied only when it is appropriate to do so, as a subset of principles, to support the operation of the principle.

## Conclusions and Recommendations

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A greater focus on consumers can improve outcomes for consumers, but this is not simply about replacing prescriptive rules with a set of guiding principles. Both rules and principles can and should work together for improved consumer outcomes, particularly during the period of transition. Thereafter, we would only expect rules to be applied when it is appropriate to do so, as a subset of principles to support the operation of the principle.

### **Key Finding 3:**

Principles-based regulation can lead to greater transparency and accountability, which in turn can foster greater consumer confidence and trust in the regulated industries.

If implemented well, the CFU is of the view that principles-based regulation can lead to greater transparency and accountability, which can, in turn, foster greater consumer confidence and trust in the regulated industries and in the organisations providing products and services in those sectors.

### **Recommendation 3:**

Service providers in the regulated industries should publicly state their commitments to act in the consumer interest and follow these through with more consumer-oriented decision making and business practices.

Public mistrust in the regulated industries is well documented, particularly when business decisions or practices appear unjustified or opaque. However, by publicly stating their commitments to act in the consumer interest, and following these through with more consumer-oriented decision making and business practices, creates greater public accountability. This will lead to improved consumer trust and confidence, which will improve not just

outcomes for consumers, but also for regulators and businesses too.

### **Key Finding 4:**

The extent of progress towards principles-based regulation varies considerably within and between sectors, and in different locations. Regulators and service providers should evaluate how they currently deal with consumers and answer key questions about how consumer-focused they are.

The energy, water and postal sectors are all started on the journey towards a greater focus on consumers through principles-based approaches, which is to be welcomed. However, progress varies considerably within and between the sectors and in different locations. This is illustrative of a general trend across a wide range of industries moving towards principles-based frameworks that are more consumer-focused. Regulators and service providers need to use the full range of tools available to them to evaluate how they deal with consumers and answer questions about how consumer-focused they are.

### **Recommendation 4:**

The CFU should explore the feasibility of commissioning follow-up research that can identify and test questions that could be the basis of a toolkit for organisations so they can assess how consumer-centric they are and how far along the journey towards adopting a set of fully-fledged consumer principles they are.

Now is an ideal time for regulators and service providers to evaluate how they deal with their customers. One way the CFU can help support this is to consider commissioning further research that can identify and test questions that could be in a toolkit for organisations so they can assess how consumer-centric they are and how far along the journey they are. This would help organisation to answer key

## Conclusions and Recommendations

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questions about how consumer-focused they are and how willing they are to move beyond regulatory requirements. In addition to providing greater transparency, this will also allow organisations in each sector to assess their individual progress on the journey towards adopting a consumer-focused approaches and allow them to take the actions necessary to become truly consumer-centric.

### **Key Finding 5:**

There are always going to be limits to a 'one size fits all' approach to regulation, particularly as there is little appetite for a single set of harmonised principles being developed that could be applied across all regulated sectors.

There are clearly going to be limits of a 'one size fits all' approach to regulation; this includes when regulation is based on consumer-focused frameworks. However, as has been shown in this research, there is little appetite from regulators and service providers for a single set of harmonised principles being developed that could be applied across all regulated sectors.

### **Recommendation 5:**

Consumer-focused frameworks should be developed in the regulated industries that are tailored to fit the unique situations and circumstances of each sector and/or location.

It is essential that each sector and/or in different locations should develop its own framework of consumer principles that fits with its unique situation and circumstances so that outcomes are improved not just for consumers, but also for businesses and regulators in each of those sectors and/or locations.

### **Key Finding 6**

The CFU's framework of consumer principles can help assess the consumer-focused claims of other organisations. However, it cannot act as a 'silver bullet' to address all of the regulatory problems or issues that might arise in each sector.

In addition to guiding everyday activity in the regulated industries, the CFU's framework serves as a reliable mechanism against which approaches to a greater focus on consumers can be assessed or measured. This is because the CFU's framework is not only tried and tested, but also internationally recognised. As a result, it could be used to assess the consumer-focused claims of other organisations. However, it is important to acknowledge that the CFU's framework cannot act as a 'silver bullet' to address all of the regulatory problems or issues that might arise in each sector and/or location.

### **Recommendation 6:**

In the absence of consumer principles or any other framework in a particular sector or organisation the CFU framework can be used as a robust tool against which other consumer-focused approaches can be measured so that their progress on the journey towards a greater focus on consumers can be assessed.

In the absence of consumer principles or any other framework in a particular sector or organisation, the principles-based framework employed by the CFU is robust enough to act as a practical tool to potentially help other organisations make progress on the journey towards a greater focus on consumers, thereby helping improve outcomes not only for consumers served by those markets, but also the businesses and regulators in them too.





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