



Full Disclosure: **The use of Third Party Intermediaries within Scotland's water market**

April 2021



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Who we are

Scotland's Citizens Advice Network empowers people in every corner of Scotland through our local bureaux and national services by providing free, confidential, and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better.

Executive summary

‘Trade and harmonious society function on the basis of trust. So the purpose of regulation of business activity is to enable widespread trust in traders, on the basis of which a healthy, sustainable and growing economy can exist, which in turn supports employment, social stability and innovation.’¹

Service users within the non-household water market should benefit from a range of services that meet their needs, in a way that protects their interests. This includes the provision of adequate protection from unethical business practices, which could cause them harm. Regulation of Scotland’s non-household water market is seeking to move service providers towards operating ‘ethically’. If applied well, it will better ensure that the market consistently delivers benefits in a way that protects users’ trust and confidence, and safeguards the market’s reputation.

The adoption of an ethical framework as part of the price review process for 2021-27 has promoted more open, honest engagement between the industry’s stakeholders, and a commitment to ‘do the right thing for customers and the industry’. The Water Industry Commission for Scotland (WICS) has set a similar standard for the non-household water market to improve outcomes for its customers, and to better protect the reputation of the market.

Citizens Advice Scotland believes that the application of an ethical framework provides all service providers within the Scottish non-household market with the opportunity to become ‘champions’ – those that seek to place consumers before profit, and should discourage ‘chancers’ from operating in the market – those that exercise unhelpful practices that unfairly disadvantage consumers. Furthermore, Citizens Advice Scotland is of the view that the application of consumer-focused principles² (access, choice,

safety, information, fairness, representation, redress) within an ethical framework will support inclusion and protection of market users within decision making and practice.

Under the 2005 Water Services (Scotland) Act, only those organisations licensed by the Water Industry Commission for Scotland (WICS) can make formal arrangements with non-household customers to supply water and wastewater services and recover charges.

Most licensed providers engage directly with customers to sell services, however, some providers may also choose to engage with third party intermediaries (TPIs) to access customers who have signed up to a TPI. TPIs may also engage with the market to sell value added services on behalf of the licensed operator, such as water efficiency or alternative billing arrangements. However, from a Scottish perspective, further clarity is required to more fully understand the extent to which TPIs are being used by licensed providers to serve customers.

Licensed providers must operate within the rules of the Scottish non-household market, which is administered by the Central Market Agency (CMA) and regulated by the Water Industry Commission for Scotland (WICS). However, TPIs are unregulated and other than the constraints or standards that an agreement with a licensed provider may require, they operate freely and outside the Market Code.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/497539/16-113-ethical-business-regulation.pdf

² https://www.cas.org.uk/system/files/publications/cas_cfu_booklet_on_consumer_principles.pdfBenefit.

Executive summary

Within the energy sector, Citizens Advice reported³ that ‘suppliers view TPIs as providing a beneficial, equitable and transparent service that generates value to them and to end users’. However acknowledged that misconduct, such as mis-selling, by a small number of TPIs causes detriment not only to customers but more widely to other providers. Such practices may result in a customer choosing a service that doesn’t best serve their needs, or feeling pressured into signing contracts. The number of TPIs operating in the energy sector is growing and licensed suppliers are calling for greater regulation.

Scotland’s non-household water market has grown from five operators in 2008 to 29 licensed providers in 2020. The extent of business undertaken by TPIs within Scotland’s water market is not fully understood nor is the degree to which the nature of their engagement with customers is regulated by licensed providers. If services are not designed with the customer’s interests central to their outcomes, this heightens the risk of frustration and financial detriment to the customer as well as a loss of trust and confidence in the market itself.

On a positive note, it is recognised that TPIs can bring benefits to non-household consumers. These include: increasing consumer awareness of switching to a better deal; lower prices; and a ‘one stop shop’ for consumers to compare deals. Such benefits are welcomed as they encourage customers to engage with the full potential of the non-household market. However, Citizens Advice Scotland believes that clear measures are needed to ensure that service delivery by all parties conducting business in the non-household market occurs in a way that adequately protects consumers and puts their interests first.

The Scottish non-household water market is moving towards ethical behaviour and practices in order to protect its customers and its reputation. This raises an important question – what is required to ensure that ethical standards apply across the whole supply chain?

CAS conducted qualitative research with licensed providers and TPIs during 2018-19 to better understand the degree to which TPI practice and culture is viewed as customer-centric. Research findings highlighted that there is no beginning to end consumer protection framework in place for non-household customers. Most TPIs claim to be consumer-focused however, there is no clear means for consumers to identify reputable TPIs from less reputable ones. This may leave customers doing business with TPIs exposed to a greater risk of detriment than those engaging directly with licensed operators who are working under the terms and conditions of the Market Code.

In order to develop a robust framework of consumer protection within the non-household water market, Citizens Advice Scotland recommends three important measures:

1) An understanding of where and how TPIs are operating within Scotland’s water sector

A review to better understand the scale and scope of how licensed market operators are using TPIs to determine:

- > The number and profile of customers engaged in TPI services
- > The type of services being delivered through TPIs
- > The standards of customer service and protection being expected of TPIs by licensed providers, and how or if this is monitored or enforced

Findings from this process should be used to inform policy and practice to ensure positive outcomes for customers and the market.

³ Citizens Advice ‘The role of third party intermediaries (TPIs) in the GB SME and microbusiness energy supply sector’ February 2019

Executive summary

2) A framework of ethical principles

There is a need for a consistent standard of consumer protection across all aspects of the market. CAS recommends that a framework of shared ethical principles should be compiled by non-household stakeholders to guide policy and practice. It should set clear outcomes for customers, the market and the environment.

Such a framework will set a clear expectation that all organisations entering into business transactions with customers, or on behalf of a licensed provider, will operate in a way that supports agreed outcomes. This will ensure that consumers using TPIs are protected to the same level as consumers directly engaged with licensed providers.

In the interim, a Code of Practice for licensed providers that commits to operating within ethical practices, could support service improvements and help to protect customers and market players from poor practices. Consumer-focused principles should be built into and underpin any such Code.

3) Accreditation scheme

Some discussions have taken place amongst non-household stakeholders on introducing an accreditation scheme for licensed providers. CAS believes that further consideration should be given towards this initiative to inform consumer choice, and to incentivise and improve outcomes for consumers and market participants.

4) Assessment of TPIs

CAS recommends that consideration should be given to developing an assessment framework for TPIs operating in the water market in Scotland, to ensure they meet a minimum standard of consumer protection and financial security.

Further consideration should be given to resources to empower consumers to make informed choices when doing business with TPIs, such as website registration or price comparison, as well as reviews of TPIs similar to that of 'Trusted Trader'.

5) Creation of a non-household stakeholder forum

As well as strengthening the market framework, Citizens Advice Scotland believes that consideration should be given to establishing a longer-term, proactive and inclusive forum for all key non-household stakeholders. The forum should include a strong consumer voice to embed a strategic approach to improving consumer outcomes.

Greater collaboration between regulators and service providers would increase stakeholder trust, and support aspects of co-design of the market framework and practices to ensure they better support positive consumer and market outcomes. It would also help to proactively identify potentially harmful policy or practices and seek ways to mitigate these.

We believe that such a forum would support the development and implementation of ethical principles throughout the non-household supply chain, and encourage greater consideration of wider market benefits by all.

Introduction

Scotland's non-household water market has been competitive since April 2008. In April 2017, the English non-household water market also opened to competition. Scottish non-household water and sewerage suppliers (known as 'licensed providers' in Scotland) are licensed by the Water Industry Commission for Scotland (WICS), and by Ofwat in England.

Licensed providers buy their water from wholesalers (in Scotland the sole wholesaler is Scottish Water). Additional services can be provided to customers through third party organisations, known as Third Party Intermediaries (TPIs) (Appendix A). TPIs may operate on the licensed providers' behalf or may operate independently.

Unlike licensed providers, TPIs are not required to hold a license. Although they do not provide the same service as licensed providers, they interact directly with non-household customers, offering additional services.

In 2017 CAS held a non-household event for licensed providers, consumer protection agencies and regulators⁴. Participants expressed their concern that consumers purchasing services from TPIs are at greater risk of experiencing detriment from poor practices. It was felt that some TPIs are only in the market a short time to make money and exit quickly, and that there is nothing in place to safeguard customers from detriment caused by this dynamic.

In 2017, a Code of Practice Working Group comprising of CAS, Scottish Water, WICS and licensed providers agreed a draft Code of Practice for Scotland's non-household market. This was never formally adopted by licensed providers. Subsequently, and prior to Covid-19 lockdown, licensed providers re-initiated a working group to review and launch a working Code.

However, over the past three years, water industry stakeholders have committed to ethical business regulation and ethical business practice (EBR and EBP). The non-household water market in Scotland is also expected to adopt such an approach to policy development and working practices.

EBR and EBP seek to support ethical and fair behaviour by service providers towards customers, regulators and other market participants. It promotes a collaborative approach between sector stakeholders to overcome issues within the non-household market. It encourages a transparent, non-adversarial and no-blame culture. It also provides a learning framework where mistakes will not be disproportionately responded to, where they are owned and measures put in place to resolve them. It sets out to "maximise performance, compliance and innovation⁵".

EBR is designed to increase the effectiveness of regulation. It supports service providers to change their behaviours from the bottom up,

⁴ These events are run for industry professionals and attendees included WICS, OFWAT, CC Water, Scottish Water and Licensed Providers

⁵ [Water Industry Commission for Scotland 'Strategic review of charges: 2021-27 - Methodology refinements and clarifications](#)

Introduction

and top down, to ensure that decision making and employee behaviour culminate in 'doing the right thing'. If organisations truly adopt an ethical approach to business, consumer protection should automatically be enhanced, and organisations will have to strike a balance between ensuring adequate service delivery to customers and making a profit. For the non-household market, operating ethically will improve practices which will benefit all stakeholders and drive more secure business modelling.

CAS is of the view that ethical business practice should be in evidence across the whole of the non-household market, which includes TPIs. In 2018-19, CAS commissioned research to better understand the gaps in consumer protection during transactions with TPIs.

During 2018-20, thinking and culture within the water sector developed to embed ethical business regulation and practice. This pushed the boundaries of previous culture within the sector to focus on the adoption of behaviours that would produce the desired outcomes for all. Focus has also shifted to the non-household market.

This report brings research findings together with more recent developments to inform ongoing stakeholder discussion and WICS' Market Health Check process.



Methodology

The initial research had two aims:

- > To conduct a **UK wide**⁶ review of consumer protection in water markets, mapping legislation, market codes, and voluntary and mandatory codes of practice to identify gaps in non-household consumer protection relevant to the operation of TPIs.
- > To establish an understanding of TPI behaviours and characteristics in both Scottish and English markets through identifying the:
 - > number and type of TPIs that licensed providers engage with and their characteristics (e.g. type of business model, size, lifespan, geographic scope of operations, target market sector, services offered)
 - > gaps in non-household consumer protection relevant to the operation of TPIs
 - > volume of licensed providers' business that is generated via TPIs
 - > discretionary consumer protection agreements / codes of practice that licensed providers require TPIs to work to
- > consumer protection frameworks, e.g. codes of practice, that TPIs use when dealing with non-household consumers
- > level of experience of TPIs, length of time in the water market, etc.
- > key consumer-related issues relevant to the operation of TPIs in the non-household water market

Purple MR conducted the research. Telephone interviews were conducted with 15 TPIs⁷ and 15 licensed providers.

The interviewees were a combination of licensed providers and TPIs serving the Scottish market, those serving the English market, and those serving both markets.

TPI interviewees were sourced from the Utilities Intermediaries Association⁸ membership lists and the EON TPI Code of Practice.

⁶ Many licensed providers and TPIs operate across both the Scottish and English non-household markets

⁷ Of these, 13 offered water services to non-household consumers and 2 intended to do so in the next two years

⁸ <http://www.uia.org.uk/>



Key Findings

TPIs: potential benefits to consumers

TPIs play an important role within the non-household market in Scotland. Furthermore, reputable TPIs that employ fair and ethical practices can offer multiple benefits to consumers.

Some TPIs offer consumers the option of purchasing multiple utilities such as water, electricity and telecommunications. They compare prices and service offerings from different licensed providers as part of a ‘bundled deal’ to customers. This can reduce the administrative burden for customers of searching across multiple utility sectors to secure the best prices, and can result in cost-savings. These benefits are particularly helpful for micro-businesses and sole traders, which typically have limited time and resources to hand.

TPIs also compare prices and service offerings across licensed providers for consumers, making it simpler for consumers to navigate markets and choose the right services to meet their needs and budget. Additionally, through directly approaching consumers, TPIs can engage and support them more proactively in what the market has to offer and inform them of their right to switch.

TPIs may offer additional consultancy services. For example, some provide advice on how customers can reduce their water usage, and therefore lower their water bills. This may be particularly attractive to smaller businesses with tight margins, or businesses that use a lot of water.

TPI benefits to licensed providers

Just over a third of business for licensed providers that took part in the initial 2018-19 research, comes through TPIs⁹. For some licensed providers,

the proportion was much higher at 60% or more.

Benefits that TPIs can bring to licensed providers include providing market intelligence and insight on pricing and performance, as well as on the services that competitor licensed providers are offering. This information can support licensed providers to set their prices competitively and adjust their service offering to be more attractive compared to their competitors. The aim being that this results in better offerings at a more competitive price for consumers.

TPIs can help licensed providers to expand their reach by providing access to their own contact database of customers. Additionally, TPIs may use specialist skills and technologies to reach potential new customers on behalf of licensed providers.

Finally, TPIs can share with licensed providers their experience and knowledge of selling utilities in other non-household markets such as electricity and gas. This supports a better understanding of consumers’ needs and wants, and allows licensed providers to tailor their service offerings to reflect these.

The potential for consumer detriment

Licensed providers recognise that TPIs can bring value to non-household customers. However, they also acknowledge that unregulated players within the market could increase the risk of poor service delivery and subsequent consumer detriment. This would serve to undermine the reputation of the non-household water market in Scotland and efforts to move to operating ethically.

Research highlighted that most licensed providers have concerns about TPIs operating in the non-household water market and that the majority of TPIs are aware of these concerns. All parties acknowledged that there are both ‘good’ and ‘bad’ TPIs operating in the water market.

⁹ Purple MR ‘Consumer protection in the English and Scottish non-domestic water markets’ April 2018

Key findings

Larger organisations are more likely to be aware of the existence of choice in the market¹⁰ and the right to switch. Micro-businesses (businesses with fewer than ten employees) and sole traders often have fewer resources and less time to ensure the market is working for them. Lower price sensitivity and awareness of supply options will result in less bargaining power. Under these circumstances, services offered by TPIs could be viewed as supportive and convenient. However, detriment caused by poor service delivery could have a disproportionately large impact. More needs to be done to ensure that smaller organisations are engaged in a way that provides them with the information they need to secure the best deals, in a way that protects their interests and minimises exposure to risk.

Both licensed providers and TPIs expressed specific concerns regarding TPI practices:

1. An inconsistent approach to consumer protection standards

Although many TPIs are reputable and work in their customers' interests, there are concerns that the absence of regulation increases the risk that they will not uphold the same service standards as those expected from licensed providers.

2. Mis-selling of products

There is a concern that some TPIs do not give market customers access to the full range of service offerings. Instead, only services that secure higher commission payments are presented to customers. Additionally, TPIs may withhold information or provide false information to consumers to promote one service offering over another. Consumers are unlikely to be aware of this. Greater transparency is needed such as the introduction of price comparison sites showing full market offerings.

3. Misrepresentation

Research found that some TPIs mis-represent the services they offer such as potential savings, terms and conditions of contracts, and who they are to consumers. A lack of awareness and understanding of the non-household market by consumers, and the lack of regulation can leave customers vulnerable to TPIs mis-representing themselves without facing consequences. Harmful practices and their impact on consumers may go unnoticed by industry regulators, generating a largely hidden issue.

TPIs that operate dishonestly within other sectors, such as energy, could lead to a wider concern that this behaviour will apply to how they operate within all utility sectors. This suggests that more is required to ensure TPIs operating in the Scottish water market do so honestly and ethically.

... some of them will ring up making out to be from their local distribution company (when they are a TPI) and telling a business (usually new businesses or businesses that have recently expanded) that they don't have a contract in place and that if they do not sign up to one in 7 days they won't be supplied with any electricity or gas¹¹ and no doubt the same for water.

(TPI England)

¹⁰ <https://www.tonline.co.uk/news/static-water-market-awareness-selling-smes-short-ccwater>

¹¹ <https://www.citizensadvice.org.uk/consumer/energy/energy-supply/problems-with-your-energy-supply/youve-been-switched-to-a-new-energy-supplier-without-your-agreement/>

Key findings

4. Sharp selling practices

Some TPIs employ aggressive sales tactics with customers to secure deals that do not fully meet their needs. Research showed that some TPIs prioritise receiving commission payments over tailoring services to meet customers' requirements.

Some TPIs do not fully disclose the terms and conditions of contracts to customers. This results in customers not being fully aware of what they are purchasing.

Such selling practices are unacceptable and unethical. Full disclosure at point of sale is required to ensure it secures the best price and does not contain hidden extras. Poor customer experiences can damage confidence and trust in the non-household market and how it is regulated. This sharply contrasts with the aims of ethical business regulation and practice.

We recently had a customer come to us and it came to light that another TPI, who they had previously used, had signed them into a new 3-year contract by forging the signature of the client, this came to light when we approached the supplier.

(TPI Scot and England)

5. Lack of knowledge about the non-household water market

There is a general concern from licensed providers that TPIs do not have a sufficient level of knowledge and experience of the water sector. This applies to those TPIs that are new to the non-household water market, and are acting as a 'one stop shop' bundling services and covering multiple sectors, including gas, electricity and communications. A poor understanding of the pricing structure in the water market may result in TPIs unintentionally mis-informing customers on prices and savings.

'It's difficult, because a lot of TPIs are brand new to this sector and they do not fully understand it. So, some of the customer information they are presenting to retailers is flawed and has gaps in it, it has been misinterpreted and on occasion commission requirements are way in excess of margins available to the retailer in the market.'

(Licensed provider, Scotland and England)

6. Impact on trust and confidence in the non-household water market

Research indicated that there are both reputable and disreputable TPIs operating in the non-household water market. Market operators are concerned that a small number of unscrupulous TPIs are not acting in the consumer interest. This is impacting the reputation of the market, and generating a view that greater governance is required to manage this.

The Utilities Intermediaries Association (UIA) was established by a group of TPIs to address concerns around their poor reputation in the energy market. Such associations offer an opportunity to push for more consistent standards of practice by members to protect the industry's reputation and customers.

In 2017, CAS held a non-household event to address the emergence of TPIs into the Scottish non-household market. This identified concerns amongst licensed providers that customers may not be aware that they are engaging with a TPI rather than a licensed provider. There were fears that this could, in the longer term, damage consumer trust and confidence in the market.

I believe TPIs have a place and that they are valuable in the market, so it is really back to sorting out the wheat from the chaff and making sure that consumer protection is there, and that there are guidelines set out by the regulator which will effectively govern how they operate.'

(Licensed provider, Scotland and England)

Consumer Protection

Consumer protection is the prevention or reduction of consumer detriment and the securing of adequate protection for consumers when they buy services. Consumer protection can go beyond statutory or regulatory protection to include additional protections, such as voluntary Codes of Practice. However, committing to follow ethical practices establishes accountability and should drive service related improvements at a strategic level. Such a commitment will support greater consumer confidence in the market, and an expectation that service related issues are the exception and will be dealt with quickly and effectively by the service provider to avoid a complaint being raised with the ombudsman.

Protection applied by TPIs to consumers

The vast majority of TPIs claim to have a consumer-focused culture. This takes many different forms including: an ability to identify their customers' needs through establishing strong relationships; identifying and mitigating potential customer issues; transparency with all customers; maintaining regular contact with customers; conducting internal appraisals of customer service standards.

TPIs highlighted that one of their motivations for being consumer focussed is that they depend on recommendations. There is a risk that if they do not adopt and maintain good service standards, customers will leave and go to another service provider.

However, 40% of TPIs do not apply any voluntary consumer promises or protections (e.g. customer charters, service standards, consumer promises

or codes of practice). In the absence of these, customers are solely reliant on legislation for protection. Although legislation offers basic consumer protection, it is generalised and does not target specific risks, attitudes or behaviours that may result in detriment to non-household water and sewerage customers.

Of those TPIs that do offer voluntary consumer promises and protection, the level and type of protection varies in terms of content comprehension. For example some TPIs claim to have informal consumer principles, whereas others have more formalised consumer standards which include a commitment to being transparent and fair (e.g. through disclosing the commissions they receive from licensed providers). Therefore, the level and type of voluntarily added protection that a customer may receive could differ significantly depending on which TPI they engage with.

Voluntary consumer promises are not always publically available, therefore making it difficult for consumers to evaluate what protection is being offered prior to engagement prior to engaging with a TPI.

Many trade bodies promote and encourage the uptake of voluntary codes of practice. Around half of the TPIs interviewed are members of trade bodies, such as the Utilities Intermediaries Association. However membership of a trade body does not guarantee that TPIs will adopt the delivery of acceptable standards.

Consumer protection

Consumer protection requirements extended by licensed providers to TPIs

Not all licensed providers insist that TPIs must sign up to offer the same level of consumer protection. Furthermore, not all licensed providers seek evidence of financial viability from a TPI prior to engagement.

Our research highlighted that most licensed providers state that they vet TPIs. Furthermore, license providers insist that TPIs operate to the same standards of customer promises and protections. Conversely, TPIs claim they are not always required to do so. Indeed some licensed providers believe it is not their role or responsibility to influence TPI in terms of how they apply consumer protection:

‘If the customer choses to use that TPI then they should be checking they are providing them with the right service level.’

(Licensed provider, Scotland and England)

Inadequate TPI vetting by a licensed provider and no requirement for TPIs to offer the same consumer protection standards, shifts the responsibility to ensure adequate protections are in place on to market customers.

There is no standard process for ensuring consumer protection between TPIs and licensed providers which strongly suggests that there is scope for greater responsibility to be taken by licensed providers to strengthen forms of consumer and market protection.

Ethical consumer protection

Ofwat introduced a mandatory Customer Protection Code of Practice (“CPCoP”) within its non-household market in April 2017 when the market opened. It is updated regularly and sets out the minimum standards of behaviour expected from licensed providers, with compliance written into their licence conditions. Following consultation in 2017, Ofwat extended a voluntary Code of Conduct to apply to TPIs¹².

TPI practices within the energy sector have led to concerns that consumers need to be better informed and protected. Citizens Advice and Ofgem produced a factsheet¹³ setting out clear principles and behaviours expected from TPIs when dealing with smaller organisations.

60% of TPIs interviewed claim to have an internal Code of Practice, however most are not publically available. A third have guaranteed service standards or a formal customer charter. This suggests that TPIs are aware of the need for a framework of customer protection standards. It also suggests that a Code of Practice could also be applied as a de-facto rule book and that good practice and standards of service delivery could become just another tick box exercise.

In 2021, a new working group was formed to review measures to support the retail market and customers during Covid-19. It comprises five licensed providers, Scottish Water, the Central Market Agency and is chaired by Citizens Advice Scotland. At the heart of the working group is the application of a number of criteria designed by WICS to drive ethical decision making and outcomes. This has encouraged collaborative working and a desire to deliver improved outcomes for the market and those that use its services.

¹² <https://www.ofwat.gov.uk/wp-content/uploads/2017/02/Protecting-customers-in-the-business-market-principles-for-voluntary-TPI-codes-of-conduct.pdf>

¹³ https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/481_tpi_facsheet_may15_web.pdf

Consumer protection

It seems a reasonable assumption therefore to conclude that the application of ethical practices across the non-household market, beyond simply establishing minimum service standards, would improve outcomes for all parties including service users.

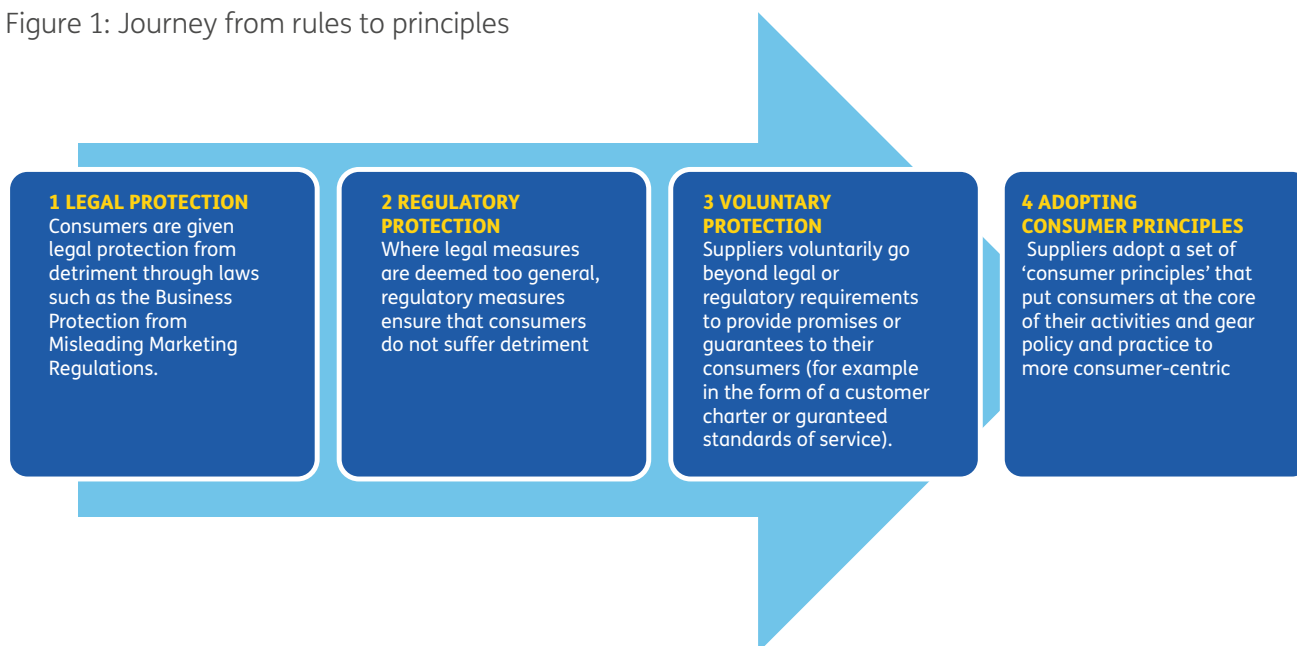
Principle based regulation

CAS applies a set of seven consumer-based principles (Appendix B). These help organisations to consider service delivery from a consumer's perspective, and to adopt more consumer focussed practices.

In 2018, CAS conducted research into principle based regulation¹⁴. This highlighted that consumer-focused outcomes and a stronger consumer culture within the non-household water market, requires a principle-led rather than rules-led approach.

Research showed that consumer protection can be viewed as a four stage journey, as set out in Figure 1. Within the non-domestic water industry in Scotland, stage four, 'adopting consumer principles', needs to be met to embed within organisations an optimum framework to achieve the best outcomes for consumers.

Figure 1: Journey from rules to principles



Adopting ethical principles, and within this overarching framework, applying Consumer Principles, would encourage both licensed providers and TPIs to go beyond compliance to act ethically, honestly and transparently and to demonstrate that customers are at the heart of their business.

This will require organisations to undertake a transformational journey beyond purely seeking to meet the requirements of the Market Code, to a culture of responding in the right way to evidenced needs and placing consumers and the environment before profit.

¹⁴ <https://www.cas.org.uk/publications/leading-example-principled-journey-through-regulation>

Conclusions

TPIs can bring benefits to non-household customers but more is needed to address any risk to services and market reputation introduced by TPIs

TPIs are not regulated by WICS. Many are well intentioned and of the belief that they are consumer-focussed. However, there is no substitute for ensuring robust measures are in place to protect consumers.

Consumers doing business through a TPI are wholly dependent on them choosing to behave in a way that prioritises their needs. There is no simple way for consumers to identify 'good' from 'bad' TPIs which elevates the risk of poorer service from TPIs that place profit before consumers.

For consumers to realise the full range of benefits that the market can offer, a clear and holistic commitment to ethical practices across all market players is necessary.

There is a need to place market rules within a principled framework

Rules-based regulation alone requires service providers to meet minimum standards. This can lead to a 'tick box' approach by service providers towards doing what is required rather than committing to and applying a set of principles that go beyond the bare minimum and support better outcomes for the industry and its customers.

Similarly, legislation alone is a blunt instrument, and although it offers basic consumer protection, it cannot help to develop the culture required to deliver this.

Organisations that adopt a principles-based approach to service delivery are more likely to adapt to changes in a way that protects consumers whilst continuing to offer a fair deal.

Ongoing collaborative work between WICS, licensed providers, Scottish Water, the CMA and CAS would support the development of rounded and inclusive policy and practice that delivery greater benefit to both the market and its consumers. Embedding an ethical approach to business and service provision within the non-household market, coupled with a stronger commitment to consumer-focused outcomes would support a transition to a market that encourages 'champions' and excludes 'chancers'.



Recommendations

1) An understanding of where and how TPIs are operating within Scotland's water sector

A review to better understand the scale and scope of how licensed market operators are using TPIs to determine:

- > The number and profile of customers engaged in TPI services
- > The type of services being delivered through TPIs
- > The standards of customer service and protection being expected of TPIs by licensed providers, and how or if this is monitored or enforced

Findings from this process should be used to inform policy and practice to ensure positive outcomes for customers and the market.

2) A framework of ethical principles

There is a need for a consistent standard of consumer protection across all aspects of the market. CAS recommends that a framework of shared ethical principles should be compiled by non-household stakeholders to guide policy and practice. It should set clear outcomes for customers, the market and the environment.

Such a framework will set a clear expectation that all organisations entering into business transactions with customers, or on behalf of a licensed provider, will operate in a way that supports agreed outcomes. This will ensure that consumers using TPIs are protected to the same level as consumers directly engaged with licensed providers.

In the interim, a Code of Practice for licensed providers that commits to operating within ethical practices, could support service improvements and help to protect customers and market players from poor practices. Consumer-focused principles should be built into and underpin any such Code.

3) Accreditation scheme

Some discussions have taken place amongst non-household stakeholders on introducing an accreditation scheme for licensed providers. CAS believes that further consideration should be given towards this initiative to inform consumer choice, and to incentivise and improve outcomes for consumers and market participants.

4) Assessment of TPIs

CAS recommends that consideration should be given to developing an assessment framework for TPIs operating in the water market in Scotland, to ensure they meet a minimum standard of consumer protection and financial security.

Further consideration should be given to resources to empower consumers to make informed choices when doing business with TPIs, such as website registration or price comparison, as well as reviews of TPIs similar to that of 'Trusted Trader'.

5) Creation of a permanent non-household stakeholder forum

As well as strengthening the market framework, Citizens Advice Scotland believes that consideration should be given to establishing a longer-term, proactive and inclusive forum for all key non-household stakeholders. The forum should include a strong consumer voice to embed a strategic approach to improving consumer outcomes.

Greater collaboration between regulators and service providers would increase stakeholder trust, and support aspects of co-design of the market framework and practices to ensure they better support positive consumer and market outcomes. It would also help to proactively identify potentially harmful policy or practices and seek ways to mitigate these.

We believe that such a forum would support the development and implementation of ethical principles throughout the non-household supply chain, and encourage greater consideration of wider market benefits by all.

Appendix A: TPIs

Third party intermediaries (TPIs) can be described as being ‘common in a wide variety of markets including those with similar structures to the business retail market, such as energy and financial services. The use of TPIs is a key opportunity for customers to engage through a forum they already use for other services and may also offer a range of services bundled and sold together including other utilities.’

TPIs give advice on specific utilities, including water, to help consumers to buy services and/or manage their needs. TPIs include switching sites, brokers and any company that offers support with service procurement.

Services include:

- Price comparisons and finding a better deal on prices and service offerings

- ‘bundled’ services ,for example, water, gas, electricity and broadband for cheaper prices
- Brokerage between the customer and the licensed provider
- Water efficiency advice and consultancy
- Account management, a close ongoing relationship and regular contact
- Information on prices, commission and service offering
- Financial management and advice
- Advice on water efficiency

TPIs do not hold a licence and therefore operate out with Scotland’s water market license conditions.



Appendix B

Consumer Principles





www.cas.org.uk



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CitizensAdviceScotland

The Scottish Association of Citizens Advice Bureaux -
Citizens Advice Scotland. Scottish charity (SC016637) and
company limited by guarantee (89892)

ISSN 2398-6190 (Print)

ISSN 2398-6204 (Electronic)

