

**Impact case study (REF3b)**

<p><b>Institution:</b> University of Leicester</p>
<p><b>Unit of Assessment:</b> UoA20 Law</p>
<p><b>Title of case study:</b> Protecting vulnerable consumers of essential services</p>
<p><b>1. Summary of the impact</b></p> <p>Essential services such as energy and water supply have, over the past three decades, been privatised by the British government with some reported negative results. One problem which became severe after privatisation is how to combine competitive markets with access to essential services because consumers in vulnerable circumstances find it difficult to obtain the best deals and good service. This research has helped regulators, policy makers and the energy and telecommunications industries to improve their understanding of the needs of the consumers in vulnerable circumstances and to develop policies and practices which take into account the multiple dimensions of vulnerability.</p> <p><b>2. Underpinning research</b></p> <p>The Centre for Consumers and Essential Services (CCES) has been conducting research into consumer vulnerability in the area of essential services (primarily energy, telecommunications and water) since its formation in 1998 and subsequent transition to the University of Leicester in 1999. Throughout this REF period the Director has been Professor Cosmo Graham, collaborating with Professor Sommerlad (Oct 2010 – March 2013), the late Martin Fitch (1999-2006), Linda Lennard and Mike George. Fitch was and Lennard is a Visiting Fellow at Leicester while George is an associate with CCES. The research carried out by CCES has two, inter-related strands.</p> <p>The first strand is conceptual and provides an account of how the regulation of essential services in the UK has changed and the implications of this at a constitutional level (3.1, 3.2). This can be characterised as a move from public ownership to private ownership and reliance on market driven devices. There has always been recognition that these services are “essential” and therefore there should be universal access to them, including by people in disadvantaged circumstances. This leads to the second strand of research examining the practical and policy measures by which the tension between market devices and social policy aims is mediated (3.3–3.6).</p> <p>In the period 2008-13, this second strand has focused on two particular issues: changing the perceptions of vulnerability held by policy-makers, regulators and industry and improving the practical working of complaint handling systems. The legislation for essential services requires regulators to have regard to the interests of specified, vulnerable ‘groups’, such as older and disabled people, and to apply this in requirements placed on companies. The research (3.4 and 3.6) shows that this approach fails to reflect the reality that consumer vulnerability is complex and multi-dimensional, driven by a number of factors which are much wider than, for example, poverty and age. Vulnerability may come about because of long-standing health issues and family circumstances, for example, and also as a result of sudden life events such as unemployment, bereavement or having to take on caring responsibilities. Having learning disabilities or a lack of literacy may make it difficult to navigate the energy market and access appropriate help and advice. The group approach also fails to recognise that vulnerability may be dynamic or transient, and that people may slip into and out of vulnerability. It also leads to assumptions that everyone within specific groups are by definition vulnerable but many do not view themselves as vulnerable. Moreover, it ignores the critical roles of markets and providers which frequently contribute to or exacerbate vulnerability.</p> <p>The aim of the research has been to influence policy makers and providers to adopt a more accurate approach to vulnerability enabling them to develop more effective policies and practices. Recent research in this area has been funded by the eaga Charitable Trust (an independent grant-giving trust that currently supports projects and research that contribute to combating fuel poverty and ensuring that energy services are fair and accessible for all groups in society), and focused on</p>

information and advice for people facing multiple barriers in the energy sector and current research on disabled people's energy costs and needs. This has been followed up through work funded by Ofgem.

An important part of protecting consumers in vulnerable circumstances is the existence of effective complaint handling regimes, both internal to providers and external to them, in order that problems may be resolved when things go wrong in timely and accessible ways. This has been an area which has been neglected as providers have concentrated on growing market share and regulators have concentrated on more structural issues. The research (3.1, 3.3, 3.4, 3.5) sets out a best principles approach to complaint handling and demonstrates how good complaint handling systems may lead to systemic improvements in service, rather than simply dealing with individual cases.

Lennard and George are independent researchers not employed by an HEI.

### 3. References to the research

1. C Graham *Regulating Public Utilities: A Constitutional Perspective*, 2000, Oxford, Hart Publishing, 202 pp. and xx
2. C Graham "Socio-economic Rights and Essential Services: A New Challenge for the Regulatory State" in D Oliver, T Prosser and R Rawlings (eds.) *The Regulatory State* (2010, Oxford University Press). pp. 157-177. ISBN 978 0 19 959317 0
3. C Graham Complaints handling and telecommunications in the United Kingdom and Australia (2011) *Telecommunications Journal of Australia*, 61. Available at: <http://www.tja.org.au/index.php/tja/index>
4. M. George, C. Graham and L. Lennard *Too Many Hurdles: Information and advice barriers in the energy market* (2011) 84 pp. Available at: <http://www2.le.ac.uk/departments/law/research/cces/publications>
5. C Graham, L Lennard and H Sommerlad (2011) *Mapping potential consumer confusion in a changing legal market* Birmingham: Legal Ombudsman. Available at <http://www.legalombudsman.org.uk/downloads/documents/publications/Consumer-Confusion-Report.pdf>
6. M George, C Graham and L Lennard *The Energy Penalty: disabled people and fuel poverty* (2013) Available at <http://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

The journal (in 3) is refereed. The last three publications are the result of research commissioned after external competitive calls for projects and a competitive tender. The book chapter (2) is in a collection edited by three of the most senior academic Public lawyers in the UK.

### 4. Details of the impact

#### Impact on government, regulatory bodies, industry and charities

This research has changed the approach taken by regulators, policy makers and industry to the issue of identifying and responding to the needs of consumers in vulnerable situations. It has led to changes in the practice of industry, providing a secondary benefit to those consumers.

Following publication of the report for eaga Charitable trust (3.4) on the information and advice needs of people facing multiple barriers in relation to access to energy, CCES's recommendations have heavily influenced Ofgem (the energy regulator) in its development of a new consumer vulnerability strategy. CCES led a workshop with the Ofgem's Consumer Policy Team in March 2011 and the insights of the work helped Ofgem to develop a broader understanding of the needs

and issues facing consumers in vulnerable positions which has been incorporated in their vulnerable consumers' strategy and has been used in their work with energy companies to promote best practice (5.2).

The research itself was disseminated widely and meetings were held with a number of organisations between December 2011 and March 2012 to discuss the findings and taking the insights further in the development of policy and practice. In particular, meetings were held with the Energy Retail Association (ERA), officials from the Department of Energy and Climate Change and major suppliers. The ERA expressed particular interest in CCES's recommendations regarding adoption of the BSI 'Inclusive Service' standard; common branding of priority service registers; and a protocol for suppliers in dealing with third parties. The recommendations are being followed up through the ERA's Debt Policy Group.

The most recent research (3.6) has been welcomed by, among others, Age Concern, Consumer Futures, National Energy Action and the Ebico Trust for Sustainable Development. For example, Professor John Hills, LSE and author of the review of fuel poverty definition for the government said: "... it looks highly relevant. It's come just in time to inform our thinking on the final report of the review" (5.8).

Chris Leigh, Deputy Director Fuel Poverty, Department of Energy and Climate Change: "*we have found that your work gives a very helpful insight into the challenges that low income and vulnerable households face in dealing with energy issues. Many of our policies to help these households are focussed on energy companies and having a clearer understanding of the barriers that they face helps us to develop and implement policies in ways that help ensure that they meet our wider objectives. Your findings will be particularly relevant for the implementation of the Green deal and new Energy Company Obligation*" (5.9).

Phil Levermore, Ebico Trust wrote to say that the report "*has been forwarded to the Board of Trustees of the Ebico Trust for Sustainable Development to help inform them of the needs of the chronically sick and disabled.*" (5.10)

#### Membership of policy making groups

Graham has been a member of the European Commission's working group on vulnerable consumers in the energy sector since 2011. He has made presentations on the research to the group in May 2011 and September 2013 and has been an active participant in developing policy within the group, doing the initial drafting for a significant part of the report which will be presented to the Citizens' Energy Forum in London in December 2013. The research had a direct impact on the ways in which the Commission has framed the problem, in terms of its discussion of the drivers of vulnerability (as opposed to the traditional approach to framing the problem in terms of vulnerable groups) (5.1).

Graham was also a member of Ofwat's Future Regulation Advisory Panel in 2012 where he was part of a group providing feedback to Ofwat on the development of its regulatory policy (5.7).

Partly as a result of her involvement in the research, Lennard became the Chair of the Public Utilities Access Forum (PUAF) in 2012, having previously been Vice Chair from 2010. Here she plays an active role in influencing the future direction of the Forum which includes regulatory representatives as well as consumer bodies and voluntary organisations. In particular, she played a central part in re-launching PUAF this year as Essential Services Action Network (ESAN) with a wider remit and membership. She is also a member of Ofgem's Consumer Challenge Group which is currently involved in advising Ofgem on the next electricity distribution price control from the consumer standpoint.

#### Impact on Complaint handling

The work CCES has carried out on complaint handling for both Ofcom and Consumer Focus (CF) has provided an underpinning advice base for their respective policy development on complaint handling by providers and independent organisations (5.5). In its most recent policy paper (5.4),

CF has emphasised that society cannot simply or easily be divided into 'vulnerable groups' and 'the rest'. People's circumstances change and anybody can become vulnerable at any time, for example through job loss or bereavement. In addition, CF stated that the policies and practices of service and product suppliers in different markets can heavily influence the choices available, the decisions people make and the extent to which people are in vulnerable positions (see 5.4)

#### International influence

International impact came when Graham was invited to provide a keynote address for the ACCAN (Australian Communications Consumer Action Network) national conference in Melbourne on 28 June 2010, as well as participating fully in the conference itself. The problems in relation to telecommunications complaints led to an investigation by the Australian Communication and Media Authority and Graham's research was cited in their final report (5.6). The work (3.3 and 3.4) has also been extended to include work on complaints in the legal services field for the Legal Ombudsman and discussion of relevant issues with the Legal Services Board in the UK (5.3).

### 5. Sources to corroborate the impact

1. [http://ec.europa.eu/energy/gas\\_electricity/forum\\_citizen\\_energy\\_en.htm](http://ec.europa.eu/energy/gas_electricity/forum_citizen_energy_en.htm) See the excel file in the 5<sup>th</sup> meeting of the Citizens' Energy Forum.
2. Ofgem "Energy Affordability: Helping develop Ofgem's Vulnerable Consumers' Strategy" (2012) at para 3.
3. "Rationales for Regulation" in Legal Services Board *Understanding the Rationale for Legal Service Regulation* March 2011. 45-7. Available at: [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/publications.htm](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/publications.htm)
4. Stearn J (2012), *Tackling consumer vulnerability An action plan for empowerment*, Consumer Focus. Available at: <http://www.consumerfocus.org.uk/files/2012/12/Tackling-consumer-vulnerability.pdf>
5. Ofcom "A Review of Consumer Complaint Procedures" (2010). Available at: [http://stakeholders.ofcom.gov.uk/consultations/complaints\\_procedures/statement/](http://stakeholders.ofcom.gov.uk/consultations/complaints_procedures/statement/)
6. Australian Communication and Media Authority *Reconnecting the Customer* (2011) at section 5.16.
7. Ofwat Future Regulation Advisory panel. Available at: <http://www.ofwat.gov.uk/future/advisory/>
8. Confirmation from author of the review of fuel poverty definition for the government, London School of Economics
9. Confirmation from Deputy Director Fuel Poverty, Department of Energy and Climate Change.
10. Confirmation available from Managing Director, Ebico Trust for Sustainable Development.