

UNIVERSITY OF
WESTMINSTER 



University
of Glasgow

Energy justice in a changing
market: an inter-disciplinary
workshop
University of Leicester
31 May 2018

Access to justice for vulnerable and energy poor
consumers: an introduction to the ESRC Just
Energy Project

Chris Gill & Marine Cornelis

Project outline

- 0 3 year project funded by Economic and Social Research Council
- 0 Project has two main concerns:
 - 0 The role of ADR in enhancing access to justice in the energy sector
 - 0 Whether ADR caters for/ empowers the most vulnerable energy users
- 0 Team:
 - 0 Dr Naomi Creutzfeldt, University of Westminster
 - 0 Dr Chris Gill, University of Glasgow
 - 0 Marine Cornelis, Expert Consultant
 - 0 Carolyn Hirst, Expert Consultant
 - 0 Dr Rachel McPherson, University of Glasgow, (RA)
- 0 Early stages: recruitment, negotiating access, started data collection

Project genesis

Naomi Creutzfeldt

- Implications of growth of European ADR
- Trust and legitimacy in new system
- The importance of national legal cultures

Chris Gill

- Design and operation of ombuds systems
- Dispute System Design
- Consumer experiences of ADR

- 
- How has growth in European ADR affected access to justice?
 - Who uses ADR and how is it experienced?
 - Who is not using ADR and why not?
 - What role is ADR expected to play in the consumer protection system?
 - How effective is ADR in fulfilling its promise/ aims?
 - How can ADR be designed to enhance access to justice?

Research questions

- 0 What is the profile of ADR users and does ADR cater for those in vulnerable circumstances?
- 0 How do vulnerable users and non-users perceive and/or experience ADR?
- 0 How does ADR fit within broader landscapes of consumer protection?
- 0 How can ADR be designed to enhance access to justice?

Energy as a case study

- 0 The European energy sector selected as a case study to investigate the issues of ADR and access to justice. Why?
 - 0 Cross-European system of ADR introduced
 - 0 ADR seen as a key part of advice-regulation-enforcement approach
 - 0 Important populations suffering detriment - I.e. issues of vulnerability and energy poverty
- 0 Energy therefore a key site at which issues around the role of ADR, access to justice, and reaching vulnerable populations intersect

Consumer protection & energy poverty provisions

- 0 **Energy-specific policies** (e.g. upcoming Clean Energy Package, Third Energy Package (2009/72/EC), Directive 2010/31/EU on the energy performance of buildings):
 - 0 France: Definition of 'energy vulnerability' + *Chèque Energie*
 - 0 Catalonia: definition + *bono social* (Spain) + 24/2015 law on energy poverty (Cat) to prevent disconnection
 - 0 Bulgaria: no definition of 'energy poverty' + 'Winter Supplement Programme' mostly for wood heating
 - 0 Italy: no definition of 'energy poverty' + electric and gas 'bonuses' (34% of the potential beneficiaries get it)

Consumer protection policies

- 0 **Consumer protection policies** (e.g. Consumer ADR Directive 2013/11/EU):
 - 0 France: *Médiateur National de l'Énergie*
 - 0 Italy: *Servizio Conciliazione* by the regulator ARERA through *Acquirente Unico* + private, conventional mediation/arbitration via the Chambers of Commerce + joint negotiation procedures (*negoziazione paritetica*)
 - 0 Catalan Ombudsman (*Sindic de Greuges*) looking at human rights & services of general interest

Country sample

- 0 Project developed with support and collaboration of National Energy Ombudsman Network (NEON)
- 0 Initially, we are focusing on some members of NEON:
 - 0 UK
 - 0 France
 - 0 Italy
 - 0 Catalonia
- 0 We will include a central/ eastern European state (Bulgaria)
- 0 Project has two phases: a mapping phase to include as many countries as possible followed by more detailed study of smaller group

Who we are talking to?

- 0 Energy ombudsmen / ADR providers
- 0 Regulators
- 0 NGOs
- 0 Consumer associations
- 0 Engineers
- 0 Consumers
- 0 Specialist organisations fighting energy poverty
- 0 Energy poverty observatories

Methods

Area of inquiry	Method
Profiles of ADR users	Survey + stakeholder interviews
Experiences/ perceptions of users and non-users	Consumer interviews
Role and design of ADR	Mapping study, stakeholder interviews

Value and impact

- We hope to shed some light on:
 - the question of what ADR can contribute to improving substantive outcomes for vulnerable and energy poor consumers
 - Wider theoretical debates about the value and contribution of ADR within justice and consumer protection systems
- More pragmatically we aim to:
 - provide some guidance for ADR providers regarding how accessibility can be enhanced
 - Influence future policy on ADR design/ redress policies at European and national level

Some early thoughts on designing justice (I)

- 0 What kind of consumer ADR design would genuinely be accessible to vulnerable populations?
- 0 There are contrasting models e.g.
 - 0 Catalonia – public ombuds with human rights focus deals with energy disputes
 - 0 UK – not-for-profit private company dealing with a range of consumer issues deals with energy disputes
 - 0 Ireland – regulator responsible for complaint handling
 - 0 Central v local models, contrasting local procedures (e.g. company ombuds), contrasting “outreach” approaches
- 0 Early stages but one interesting approach is the UK’s Extra Help Unit
 - 0 Advocacy service (referral only) which only deals with vulnerable consumers and negotiates on their behalf with firms
- 0 Dilemmas for consumer ADR:
 - 0 ‘user-focus’ – making service fit for current users
 - 0 ‘non-user focus’ – attracting non traditional users

Some early thoughts on designing justice (II)

- 0 Improving outcomes for vulnerable consumers:
 - 0 Get more people to participate and use ADR/ access redress
 - 0 Proactively identify and fix problems
- 0 Is the role of consumer ADR changing?
 - 0 “Downstream” intervention with businesses (consultancy/ advice models)
 - 0 A regulator of businesses’ internal dispute resolution (e.g. UK ombuds work on big data, algorithms, and fairness)
 - 0 Collective redress?
- 0 Is technology part of the solution or the problem?
 - 0 Complaint services/ apps e.g. Resolver
 - 0 Digital exclusion

Invitation

- 0 We welcome your views, advice, and feedback – please get in touch!
- 0 We will be holding a conference on access to justice and energy justice at the University of Glasgow in summer 2020 – we hope to see you there (more details soon)!

Please follow our project!

- 0 Twitter: @esrcjustenergy
- 0 Blog: <https://esrcjustenergy.wordpress.com/>
- 0 Email: N.Creutzfeldt@westminster.ac.uk, chris.gill@glasgow.ac.uk

Thank you for listening 😊