
2022 Review of Postal Regulation

Annexes

Non-confidential version: [x] marks confidential redactions

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Please note that the following annexes have been published separately.

- A4. [Final Guidance for parcel operators on consumer complaints handling procedures](#)
- A5. [Statutory Notification: new Consumer Protection Condition 5](#)
- A6. [Decision on access regulation: supporting evidence and further detail](#)
- A7. [BVA BDRC, Additional Analysis for Parcels Review C2X Research 2021](#)

A1. Glossary and defined terms

This glossary is a non-exhaustive list of defined terms and acronyms used throughout this statement. It is designed to help readers understand the terms and acronyms we have used in order to help them better understand the document.

Term	Definition
2021 Annual Monitoring Update	Ofcom's market update dated 9 December 2021, entitled 'Annual Monitoring Update on the Postal Market – Financial year 2020-21'.
2020 Annual Monitoring Update	Ofcom's market update dated 26 November 2020, entitled 'Annual Monitoring Update on the Postal Market – Financial year 2019-20'.
Access	Allowing access operators, or other companies operating in the postal market, to use Royal Mail's postal network for the provision of a postal service (through final mile delivery). Access to Royal Mail's postal network could, in principle, be at any point in the pipeline, though in our regulations we require access at the IMC (inward mail centre) only, and for a specified set of services (D+2 Access and D+5 Access).
Access operator	A postal operator or a user of postal services which has or seeks access to Royal Mail's postal network.
Addressed mail or Addressed letters	Mail or letters with a named recipient.
Advertising mail	Mail for marketing and advertising purposes, sent by businesses to consumers. Also known as 'direct mail'.
Articles for the blind	A USO service which enables blind and partially sighted people to send certain items First Class through the post free of charge.
Bulk mail	Large volumes of letters and/or parcels subject to discounts relating to volume, format and pre-sortation. Bulk mail is a separate service from single-piece mail (definition below).
Business-to-business (B2B)	Letters or parcels sent from a business to another business.

Business-to-consumer (B2C)	Letters or parcels sent from a business to a consumer.
Consumer Advocacy Bodies (CABs)	This refers to the three consumer bodies - Citizens Advice, Consumer Scotland (formally Citizens Advice Scotland) and the Consumer Council Northern Ireland.
Consumer-to-business/consumer (C2X)	Letters or parcels sent from a consumer to another entity, which could, for example, be a business or another consumer.
CA 2003	The Communications Act 2003.
Consumer Protection Condition (CP)	A condition which Ofcom may impose under section 51 of the PSA 2011 on every postal operator or postal operators of a specified description relating to consumer protection matters. Further information about CP Conditions can be found in Annex 2.
CPI	Consumer Price Index.
CWU	Communications Workers Union.
D+1, D+2, or D+5	A postal service that aims to deliver one (D+1), two (D+2), or five (D+5) working days after collection from the sender.
D+2 Access	Access to Royal Mail's postal network at the IMC (inward mailing centre) for the purposes of providing D+2 and later than D+2 Letters and Large Letters services.
D+5 Access	Access to Royal Mail's postal network at the IMC for the purposes of providing D+5 and later than D+5 Letters services. These are for delivery by Royal Mail on a working day that is later than the next working day after the Letters were handed over (by the D+5 Access Operator) at the IMC, but which day is no later than the fourth working day after such a handover.
December 2021 consultation or December consultation	The consultation issued on 9 December 2021, entitled 'Consultation: Review of Postal Regulation'.
Direct mail	Mail for marketing and advertising purposes, sent by businesses to consumers. Also known as 'advertising mail'.

Downstream access	Access to Royal Mail's postal network at the point of entry to an Inward Mail Centre or at any point in the postal chain after that.
DUSP condition	Designated Universal Service Provider condition. A condition Ofcom may impose on the designated universal service provider under section 36 of the PSA 2011. Further information about DUSP Conditions can be found in Annex 2.
EBIT	Earnings Before Interest and Tax.
EBITDA	Earnings Before Interest, Tax, Depreciation and Amortisation.
EBITDA/Interest	The EBITDA-to-interest ratio is a financial ratio that is used to assess the ease with which a company can pay the interest on its outstanding debt.
End-to-end	A service which comprises all parts of the postal value chain: collection, sortation, transportation upstream and delivery of mail to its final destination.
End-to-end operators	Operators, including Royal Mail, that provide an end-to-end postal service from collection to delivery (this may only be provided in some parts of the country by operators other than Royal Mail).
Essential Condition	A condition Ofcom may impose under section 49 of the PSA 2011 on every postal operator or every postal operator of a specified description specified in the condition. It can contain such obligations as Ofcom considers necessary for the purposes of safeguarding confidentiality in connection with the sending, conveyance and delivery of letters; safeguarding security where dangerous goods are transported; safeguarding the confidentiality of information conveyed; guarding against the theft or loss of or damage to postal packets; and securing the delivery of postal packets to the intended addressee. Further information about Essential Conditions can be found in Annex 2.
Fully Allocated Costs (FAC)	An accounting approach under which all the costs of the firm are distributed between its various services. The fully allocated cost of a product may therefore include

some common costs that are not directly attributable to the service.

Financeability EBIT

EBIT of the Reported Business used for assessing financeability of the universal service. We consider earnings before interest and tax (EBIT), calculated to include transformation costs and with pension costs restated on a cash basis.

First Class

The USO priority service for letters and parcels, provided by Royal Mail, which has a routing time ('speed of delivery') from collection to delivery of D+1.

FFO (Funds From Operations)

FFO is a measure of the net cash flows generated by a company's operations in a financial period, typically one year.

FFO/ Net Debt

The FFO to net debt ratio measures the ability of a company to pay off its debt using net operating income alone. Net Debt is a measure of a company's liabilities at a certain point in time which nets off the company's cash and other liquid assets against its debts.

Inward Mail Centre (IMC)

The operations of a Royal Mail mail centre in which the activities related to the processes of final sorting for delivery (in that mail centre's catchment area) of mail received from the upstream part of Royal Mail's network, or from other postal operators etc., to the final addresses take place. IMCs also act as OMCs (Outward Mail Centres) in the upstream part of the network.

Large letter

A large letter is any item larger than a Letter and up to 353mm in length, 250mm in width and 25mm in thickness, with a maximum weight of 750g.

Letter

A letter is any item up to 240mm in length, 165mm in width and 5mm in thickness, weighing no more than 100g.

Mailmark

Mailmark is a barcode system used by Royal Mail. This makes letters and large letters machine-readable, which allows for the tracking of items within the Royal Mail network.

March CFI	The Call for Inputs Ofcom issued on 11 March 2021, entitled 'Call for Inputs: Review of Postal Regulation'.
Margin squeeze	Margin squeeze is a type of exclusionary conduct that can occur if a vertically-integrated firm, in this case Royal Mail, holds a dominant position in one part of the supply chain of a product, and uses this position to prevent non-vertically integrated competitors from achieving an economically viable price-cost margin on another part of the supply chain of that product.
Meter (also known as franking)	A payment channel for Royal Mail services where customers (typically SMEs) pre-pay for postage and apply an impression to the envelope, label or wrapper using a franking machine licensed by Royal Mail.
Minimum requirements	The services set out in section 31 of the PSA 2011 that must, as a minimum, be included in a universal postal service. Further information about the minimum requirements can be found in Annex 2.
Net Debt/EBITDA	The net debt-to-EBITDA ratio is a measurement of leverage, helping to assess a company's ability to repay its debts using its operating profits (measured before non-cash elements of depreciation and amortisation).
ONS	Office of National Statistics.
Parcel	Unless specified otherwise, usually refers to a postal packet that is not a Letter or a Large Letter.
Pipeline	Stages involved in the production and distribution process of goods or services from the initiation of the process to the delivery of the final product. In postal services the pipeline refers to the stages from collection to delivery of a postal item.
Postal operator	Defined in section 27(3) of the PSA 2011 as meaning a person who provides the service of conveying postal packets (definition below) from one place to another by post, or any of the incidental services of receiving, collecting, sorting and delivering postal packets.
Postal network	Defined in section 38(3) of the PSA 2011 as meaning the systems and all the resources used by Royal Mail for the purpose of complying with its universal service

obligations (and, accordingly, includes arrangements made with others for the provision of any service).

Postal packet

Defined in section 27(2) of the PSA 2011 as a letter, parcel, packet or other article transmissible by post.

Postal service

Defined in section 27(1) of the PSA 2011 as meaning the service of conveying postal packets (definition above) from one place to another by post, the incidental services of receiving, collecting, sorting and delivering postal packets, and any other service which relates to, and is provided in conjunction with, any of those services.

Price plans

The respective national and zonal pricing options which Royal Mail offers in relation to its agreements with other persons for access services. It includes the price plans known as National Price Plan One (SSCs), Average/National Price Plan Two (Zones) and Zonal Price Plan and Regional Price Plan (Zones).

PSA 2011

The Postal Services Act 2011.

Publishing mail

Mail consisting of periodical items such as magazines and newspapers.

Quality of Service (QoS)

A requirement (set out in DUSP condition 1.9.1) requiring Royal Mail to meet certain quality of service standards and performance targets.

Redirection

The USO service of redirection of all mail addressed to a particular recipient from one address to another for a specified period of time. Royal Mail currently offers a residential redirection and business redirection service.

Regulatory Accounting Guidelines (RAG)

A document setting out such requirements as Ofcom may direct from time to time relating to the preparation, auditing, reporting and publication, of regulatory financial statements and other regulatory financial reports to be prepared and maintained by Royal Mail under the USPAC Condition.

Regulatory financial reports

The financial reports produced for Ofcom by Royal Mail in accordance with the RAG; they include both regulatory financial statements and additional financial reports.

Regulatory financial statements	The income statements, balance sheet statements and cash flow statements produced by Royal Mail as per the RAG.
Relevant Group	Royal Mail PLC and the group of companies it collectively holds.
Reported Business	The part of Royal Mail's parcels, international and letters (UKPIL) business that undertakes activities for the purpose of, or in connection with, the provision of universal service and non-universal service products, excluding the activities and products of Parcelforce International and Royal Mail Estates Limited. For the avoidance of doubt, the activities and products of the Reported Business include all the activities and products which fall within the scope of Royal Mail's National Costing Methodology as documented in the Costing Manual from time to time.
Review of User Needs (RUN)	Ofcom's Review of postal users' needs dated 26 November 2020, which contains our assessment of whether the minimum requirements of the universal postal service reflect the reasonable needs of users of postal services in the UK.
Royal Mail	Royal Mail Group Limited, whose registered company number in England and Wales is 04138203.
Royal Mail Wholesale	A business unit within Royal Mail Group Limited that deals with access to Royal Mail's postal network.
Review of Safeguard Caps	Ofcom's final statement entitled 'Review of the Second Class Safeguard Caps: Price caps for Second Class standard letters, large letters and parcels up to 2kg', published on 17 January 2019.
Safeguard cap	In 2012 Ofcom introduced a safeguard cap on Second Class stamped items up to 2kg, with one price for letters, and a separate basket price for stamped parcels and Large Letters.
Second Class	The USO standard service for letters and parcels, provided by Royal Mail, which has a routing time ('speed of delivery') from collection to delivery of 3 days (a D+3 service).

Signed For	A USO service which is an add-on to First Class and Second Class and requires signature on delivery. It includes standard compensation for loss and damage.
Single piece services	Single piece is defined in the Universal Service Order as a postal service for the conveyance of an individual postal packet to the addressee, for which the price per postal packet is not subject to any discounts related to (a) the number of postal packets sent in connection with the person who paid for the service; (b) the positioning or formatting of text on the postal packet; (c) the use of markings which facilitate the use of machines to sort postal packets; (d) pre-sortation into geographical areas for delivery; or (e) the purchase of any other conveyance of the same or any other postal packet. Single-piece mail is a separate service from bulk-mail (please refer to definition above).
Small and Medium Sized Enterprise (SME)	A company with fewer than 250 employees.
Sorted	Describes mail that has been sorted into geographical areas prior to being collected by the postal operator. Some postal operators call this type of mail 'pre-sorted'.
Special Delivery Guaranteed by 1pm (SDG)	A USO service which offers a registered, tracked service which guarantees delivery of mail by 1pm the next working day, includes insurance and requires a signature on delivery. Senders have the option of buying additional levels of insurance cover.
Statement of Process	A Royal Mail document that outlines the process for postal operators and users of postal services to make requests for access contracts or to make variations to existing contracts.
Transactional mail	Mail generated by a business which is conducting a financial transaction with consumers (such as bank statements and invoices).
Universal Service Obligation (USO)	The requirements to provide postal services which are contained in DUSP conditions imposed on Royal Mail by Ofcom under section 36 of the PSA 2011.
Universal Service Order	This refers to the Postal Services (Universal Postal Service) Order 2012 (as amended by the Postal Services

	(Universal Postal Service) (Amendment) Order 2013), which defines the scope of a universal service setting out a description of services that should be provided in the UK as a universal postal service, including a set of required characteristics of those services.
Universal Service Provider (USP)	Any postal operator for the time being designated by Ofcom as the universal service provider under the PSA 2011.
Unsorted	Describes mailing items handed to an operator which are not pre-sorted.
Upstream	The activities of collection, outward sortation (where necessary – pre-sorted mail may not require further outward sortation) and trunking.
User	Defined in section 65(1) of the PSA 2011 as including addressees and potential users.
USP access condition (USPA Condition)	A condition that Ofcom may impose under section 38 of the PSA 2011 that requires Royal Mail, as the universal service provider, to give access to its postal network to other postal operators or users of postal services and/or requires Royal Mail to maintain accounting separation.
Zones	The geographical zones into which Royal Mail divides the United Kingdom based on the density of delivery points and the proportion of business delivery points of postcode sectors, currently known as Zone A (Urban), Zone B (Suburban), Zone C (Rural) and Zone D (London).
Zonal access	A type of posting provided by Royal Mail for access operators who are unable to meet the mailing profile requirement of national access and charges.

A2. Overview of the relevant legal framework

- A2.1 This Annex seeks to provide readers with a high-level overview of both the statutory framework underpinning Ofcom’s regulation of postal services, and the regulatory framework that Ofcom has adopted to date in line with that statutory framework.
- A2.2 The overarching statutory framework, as laid out in the legislation, sets out the key elements central to the legal regime applicable to postal services. That statutory framework, and the regulatory framework adopted by Ofcom, must be considered together to understand the overall legal framework applicable to postal services.
- A2.3 The overview set out below does not intend to provide for an exhaustive summary of the legal regime currently in force; readers should refer to the specific statutory provisions and regulatory conditions for greater detail. A copy of all of the regulatory conditions imposed on postal operators is available on Ofcom’s website.¹

Ofcom’s statutory duties

Securing the provision of a universal postal service

- A2.4 Section 29(1) of the Postal Services Act 2011 (the “PSA 2011”)² requires Ofcom to carry out its postal functions in a way that it considers will secure the provision of a universal postal service.
- A2.5 Section 29(3) of the PSA 2011 provides that, in performing its duty under section 29(1), Ofcom must have regard to the need for the provision of a universal postal service to be:
- a) financially sustainable; and
 - b) efficient before the end of a reasonable period and for its provision to continue to be efficient at all subsequent times.
- A2.6 Section 29 of the PSA 2011 does not require that Ofcom give more weight to one of those considerations over the other. Ofcom must take them both into account in arriving at a judgment as to how it ought to carry out its functions, including when considering imposing or modifying regulatory conditions.
- A2.7 Section 29(4) of the PSA 2011 confirms that the reference to ‘financially sustainable’ includes the need for a reasonable commercial rate of return for any universal postal service provider on any expenditure incurred by it for the purpose of, or in connection with, the provision by it of a universal postal service.
- A2.8 Section 29(6) of the PSA 2011 also provides that Ofcom must carry out its postal functions in a way that it considers will secure the provision of sufficient access points to meet the reasonable needs of users of the universal postal service.

¹ Ofcom, 2019. [Conditions imposed on postal operators](#).

² Official UK database of legislation. [Postal Services Act 2011](#).

Ofcom's general duties

- A2.9 Section 3(1) of the Communications Act 2003 (the "CA 2003")³ sets out Ofcom's general duties. These are to further the interests of citizens in relation to communications matters, and further the interests of consumers in relevant markets, where appropriate by promoting competition.
- A2.10 In performing its general duties, Ofcom must have regard to a range of other considerations where relevant⁴, including, amongst other things:
- c) the desirability of promoting competition in relevant markets;
 - d) the desirability of encouraging investment and innovation in relevant markets;
 - e) the needs of persons with disabilities, of the elderly and of those on low incomes;
 - f) the opinions of consumers in relevant markets and of the public generally;
 - g) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas; and
 - h) the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in section 3(1) is reasonably practicable.
- A2.11 Section 3(5) CA 2003 provides that in performing its duty to further the interests of consumers⁵, Ofcom must have regard in particular to the interests of those consumers in respect of choice, price, quality of service and value for money.
- A2.12 Section 3(6A) CA 2003 confirms that where it appears to Ofcom, in relation to the carrying out of any of its functions in relation to postal services, that any of its general duties conflict with its duty under section 29 of the PSA 2011 to secure the provision of a universal postal service, priority must be given to the latter.
- A2.13 In performing its general duties, Ofcom must have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and any other principles appearing to Ofcom to represent the best regulatory practice.⁶

The universal postal service

- A2.14 We explain below the three 'building blocks' which make up Royal Mail's universal postal service obligations. In particular:
- i) the minimum requirements set by Parliament in the PSA 2011;
 - j) the universal postal service order ("**Universal Service Order**") set by Ofcom; and

³ Official UK database of legislation. [Communications Act 2003](#).

⁴ Section 3(4) CA 2003.

⁵ Under s.405(5A) CA 2003 as amended, references to consumers in a market for a service include, where the service is a postal service, addressees.

⁶ Section 3(3)(a) and (b) CA 2003. Ofcom's regulatory principles are also outlined here: [Policies and Guidelines](#).

- k) the designated universal service provider (“DUSP”) conditions set by Ofcom.

The minimum requirements

A2.15 Section 31 of the PSA 2011 sets out the services that must, as a minimum, be included in a universal postal service. These are determined by Parliament and cannot be modified by Ofcom. Ofcom can, however, and did recently, conduct a review of the extent to which the minimum requirements meet the reasonable needs of postal users in the UK.⁷

A2.16 In summary, the minimum requirements comprise:

- a) at least one delivery of letters every Monday to Saturday, and at least one delivery of other postal packets every Monday to Friday;
- b) at least one collection of letters every Monday to Saturday, and at least one collection of other postal packets every Monday to Friday;
- c) a service of conveying postal packets from one place to another by post at affordable, geographically uniform prices through the UK;
- d) a registered items service at affordable, geographically uniform prices through the UK;
- e) an insured items service at affordable, geographically uniform prices through the UK;
- f) the provision of certain free services to the blind/partially sighted; and
- g) the free conveyance of certain legislative petitions and addresses.

A2.17 Section 33 of the PSA 2011 sets out exceptions to the minimum requirements. It specifies that the minimum requirements outlined in section 31 do not apply to letters (or other postal packets) whose weight exceeds 20kg or whose dimensions fall outside the minimum and maximum dimensions laid down by the Universal Postal Union (UPU).⁸

A2.18 Section 33 further sets out that the minimum requirements in respect of delivery or collection of letters or other postal packets do not need to be met in such geographical conditions or other circumstances as Ofcom consider to be exceptional, and that nothing in the minimum requirements is to be read as requiring a service to continue without interruption, suspension or restriction in an emergency.⁹

The universal postal service order

A2.19 Ofcom is required (by section 30(1) of the PSA 2011) to make an order setting out:

- a) a description of the services that it considers should be provided in the UK as a universal postal service, and
- b) the standards with which those services are to comply.

⁷ Ofcom, 2020. [Review of postal users' needs](#).

⁸ Section 33(1) of the PSA 2011.

⁹ Section 33(2)(b) and (3)(a) of the PSA 2011. In April 2020, Ofcom acknowledged that the Covid-19 pandemic created an emergency situation. This emergency period ended on 31 August 2021. Further information can be found on the Ofcom website: [Royal Mail delivery changes](#).

- A2.20 The first Universal Service Order was made by Ofcom in 2012 (the *Postal Services (Universal Postal Service) Order 2012*).¹⁰ Whilst the Universal Service Order must include, as a minimum, each of the services listed in the minimum requirements (as set out in section 31 of the PSA 2011)¹¹, it can go beyond these.
- A2.21 Before making or modifying a universal postal service order, Ofcom must carry out an assessment of the extent to which the market for the provision of postal services in the UK is meeting the reasonable needs of the users of those services.¹²
- A2.22 The current Universal Service Order includes features going beyond the minimum requirements of the PSA 2011. This was reflected in a table to our March CFI.¹³

DUSP conditions¹⁴

- A2.23 Ofcom can impose DUSP conditions on a universal service provider pursuant to section 36 of the PSA 2011.¹⁵ These can include, amongst other things, a requirement for a universal service provider to provide a universal postal service (or part of such a service) throughout or in a specified part of the UK.¹⁶
- A2.24** A DUSP condition can also make provision as to the tariffs to be used for determining the prices in accordance with which a universal postal service is provided.¹⁷ In exercising this power, Ofcom must seek to ensure that the prices: are affordable, take account of the costs of providing the service or part of a service and provide efficiency incentives.¹⁸ A DUSP condition may also impose performance targets.¹⁹
- A2.25 To date, Ofcom has imposed three DUSP conditions on Royal Mail, which specify in greater detail the services that must be provided as part of the universal postal service:
- a) DUSP Condition 1 requires Royal Mail to provide those services set out in the Universal Service Order throughout the UK. It also includes performance targets that Royal Mail must meet in respect of some of the universal services, as well as obligations to notify and publish certain information;
 - b) DUSP Condition 2 imposes a safeguard cap on stamps for Second Class letters; and
 - c) DUSP Condition 3 imposes a safeguard cap on stamps for Second Class large letters and parcels up to 2kg.

¹⁰ A copy of the Universal Service Order is available on Ofcom's website here: [The Postal Services \(Universal Postal Service\) Order 2012](#).

¹¹ Section 30(2) of the PSA 2011.

¹² Section 30(3) of the PSA 2011.

¹³ Ofcom, 2021. [Call for inputs: Review of postal regulation](#), from page 85.

¹⁴ The latest version of Ofcom's DUSP conditions is available at: [Conditions imposed on postal operators](#).

¹⁵ Royal Mail was designated as the universal service provider on 29 September 2011.

¹⁶ In accordance with the standards set out in the Universal Service Order; Section 36(2)(a) of the PSA 2011.

¹⁷ Section 36(4) of the PSA 2011.

¹⁸ Section 36(5) of the PSA 2011.

¹⁹ Section 36(6) of the PSA 2011.

Other regulatory conditions

- A2.26 In addition to imposing DUSP conditions, Ofcom has the power under the PSA 2011 to impose a number of other regulatory conditions.²⁰ These are:
- a) a USP access condition;
 - b) a USP accounting condition;
 - c) a notification condition;
 - d) a general universal service condition;
 - e) an essential condition;
 - f) a general access condition; and
 - g) a consumer protection condition.
- A2.27 Schedule 6 of the PSA 2011 contains general provisions about the imposition, modification or revocation of regulatory conditions.²¹ In particular, it specifies that Ofcom may impose or modify a regulatory condition only if it is satisfied that the condition or modification:
- a) is objectively justifiable;
 - b) does not discriminate unduly against particular persons (or a particular description of persons);
 - c) is proportionate to what it is intended to achieve; and
 - d) is transparent (in relation to what it is intended to achieve).
- A2.28 Further, Ofcom's power to impose access or other regulatory conditions is subject to its duty under section 29(1) of the PSA 2011 to secure the provision of a universal postal service.²²

Access Conditions

- A2.29 Ofcom is entitled to impose two types of access conditions under the PSA 2011. In particular:
- a) a universal service provider access ("**USPA**") condition; and
 - b) a general access condition.

USPA condition

- A2.30 Section 38(2) of the PSA 2011 provides that Ofcom may impose a USPA condition, requiring the universal service provider to give other postal operators or users access to its postal network, and/or to maintain a separation for accounting purposes between such different

²⁰ As listed in section 28(2) of the PSA 2011.

²¹ Section 53 of the PSA 2011.

²² Section 29(2) of the PSA 2011.

matters relating to access (including proposed or potential access) to its postal network as Ofcom may direct.

- A2.31 A USPA condition may not be imposed unless Ofcom considers it is appropriate to promote efficiency, promote effective competition and to confer significant benefits on the users of postal services.²³
- A2.32 Section 38(5) of the PSA 2011 provides that Ofcom may not impose any price controls on a universal service provider in a USPA condition unless it appears to them that the provider concerned:
- a) might otherwise fix and maintain some or all of its prices at an excessively high level with adverse consequences for users of postal services, or
 - b) might otherwise impose a price squeeze with adverse consequences for users of postal services.
- A2.33 When imposing price controls in a USPA condition in connection with the giving of access to a universal service provider's postal network or to part of that network, section 38(6) of the PSA 2011 requires Ofcom to have regard to the costs incurred in providing that network, or part of that network, as it considers appropriate.
- A2.34 In imposing price controls in a USPA condition, Ofcom may:
- a) have regard to the prices at which services are available in comparable competitive markets, and
 - b) determine what they consider to represent efficiency by using cost accounting methods.²⁴
- A2.35 Further, section 38(8) of the PSA 2011 provides that, in deciding what obligations to impose in a USPA condition in a particular case, Ofcom must (in addition to taking into account anything relevant for the purpose of performing its duty under section 29) take into account, in particular, the following factors:
- a) the technical and economic viability, having regard to the state of market development, of installing and using facilities that would make the proposed access unnecessary,
 - b) the feasibility of giving the proposed access,
 - c) the investment made by the universal service provider concerned in relation to the matters in respect of which access is proposed,
 - d) the need to secure effective competition in the long term, and
 - e) any rights to intellectual property that are relevant to the proposal.

²³ Section 38(4) of the PSA 2011.

²⁴ Section 38(7) of the PSA 2011.

A2.36 Ofcom imposed a USPA condition on Royal Mail in 2012 requiring it to offer access to its Inward Mail Centres to other postal operators for the purposes of providing “D+2²⁵ and later than D+2 Letter and Large Letter services”. This USPA condition has recently been extended to cover a new D+5 Letter service too.²⁶ Further detail on the precise requirements of the USPA condition are set out in our discussion of the access framework at Chapter 8.

General access condition

A2.37 Section 50 and Schedule 3 of the PSA 2011 also grant Ofcom the power to impose a general access condition, which permits other postal operators or users to access the postal infrastructure of a particular postal operator (not necessarily Royal Mail) and to maintain accounting separation relating to this access.

A2.38 A general access condition may not be imposed unless Ofcom considers it is necessary to protect the interests of the users of postal services and/or to promote effective competition.²⁷

A2.39 Ofcom has not imposed any general access conditions to date.

USP Accounting Conditions

A2.40 Under section 39 of the PSA 2011, Ofcom is entitled to impose a USP accounting condition on the universal service provider. This type of condition requires the provider to do one or more of the following:

- a) to maintain a separation for accounting purposes between different matters as directed by Ofcom;
- b) to comply with cost identification and orientation rules made by Ofcom;
- c) to comply with rules made by Ofcom about the use of cost accounting systems; and
- d) to secure that its compliance with those systems is audited annually by a qualified independent auditor (including meeting the costs of the audit).

A2.41 In 2012, Ofcom imposed a USP accounting condition on Royal Mail. Following a modification in 2014 and a consultation in 2017, Ofcom revoked the existing USP accounting condition and imposed a new one²⁸ on Royal Mail – which took effect from 26 March 2018. The new USP accounting condition includes requirements in relation to accounting separation, costing methodologies and reporting. Alongside these conditions, Ofcom imposed Regulatory Accounting Guidelines on Royal Mail which set out directions relating to the preparation, auditing, reporting and publication of regulatory financial

²⁵ “D+X” means the total time between the sender sending the postal packet, and it being delivered to the recipient. For example, D+2 refers to the customer (sending the letter) to be injected into Royal Mail’s network for it to then be delivered (on D+2).

²⁶ A copy of our statement on D+5 letters can be found here: [Statement: Modifications of the USP Access Condition for regulating access to Royal Mail’s postal network \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/usp/usp201706/usp201706.pdf). The current USPA condition is available at: [USP Access Condition \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/usp/usp201706/usp201706.pdf).

²⁷ Section 50(4) of the PSA 2011.

²⁸ Ofcom, 2017. [Statutory Notification: new USP accounting condition \(USPAC\)](https://www.ofcom.gov.uk/consult/condocs/usp/usp201706/usp201706.pdf).

statements and other regulatory financial reports. The Regulatory Accounting Guidelines were most recently updated in 2019.²⁹

Notification Conditions

- A2.42 Section 41 of the PSA 2011 empowers Ofcom to impose a notification condition on any postal operator who is providing, or intending to provide, a service within the scope of the universal postal service. Such a condition requires operators to give Ofcom advance notice of their intention to commence or expand letter delivery operations.
- A2.43 Following a direction from the Secretary of State in 2012, Ofcom imposed a notification condition³⁰ on postal operators requiring them to notify it three months in advance if they are planning to enter or expand letter delivery operations in the UK. This condition is confined to operators intending to provide new or additional letter delivery services of a certain scale; namely 2.5 million items per quarter.

General Universal Service Conditions

- A2.44 Under section 42 of the PSA 2011, Ofcom has the power to impose a general universal service condition (“**GUSC**”) on all postal operators that provide services within the scope of the universal postal service (or to operators of a specified description – for example, those that provide a certain type of service).
- A2.45 A GUSC may contain obligations that Ofcom considers are necessary to impose for, or in connection with, securing the provision of a universal postal service. A GUSC may also, in certain circumstances, require postal operators to make contributions for meeting the financial burden of providing a universal postal service.³¹
- A2.46 Finally, a GUSC cannot replicate the requirements of the universal service – meaning that it may not require a person to:
- a) deliver or collect letters six days per week (or other postal packets five days per week);
 - b) provide a service throughout the UK; or
 - c) provide a service at an affordable, geographically uniform price throughout the UK.³²
- A2.47 Ofcom has not imposed any GUSCs to date.

Essential Conditions

- A2.48 Section 49(1) of the PSA 2011 provides that Ofcom may impose an essential condition on every postal operator, or every postal operator of a description specified in the condition. An essential condition is defined³³ as one which contains such obligations as Ofcom

²⁹ Ofcom, 2019. *Direction: new Regulatory Accounting Guidelines (RAG)*.

³⁰ Ofcom, 2012. *Consolidated Notification Condition 1*.

³¹ Section 42(2) of the PSA 2011.

³² Section 42(4) of the PSA 2011.

³³ Section 49(2) of the PSA 2011.

considers necessary to impose for, or in connection with, any one or more of the following purposes:

- a) safeguarding confidentiality in connection with the sending, conveyance and delivery of letters;
- b) safeguarding security where dangerous goods are transported;
- c) safeguarding the confidentiality of information conveyed;
- d) guarding against the theft or loss of or damage to postal packets; and
- e) securing the delivery of postal packets to the intended addressees.

A2.49 In March 2012, Ofcom imposed the first essential condition on all regulated postal operators. Following a modification in 2014 and a consultation in 2016, Ofcom revoked the existing essential condition and imposed a new Essential Condition³⁴ – which took effect from 1 March 2017.

A2.50 The new Essential Condition (Essential Condition 1) applies to “*relevant postal operators*”, a term defined in the condition itself at E 1.1.2(q) as a postal operator that provides a relevant postal service. Under E 1.1.2(s), a “*relevant postal service*” means a relevant letters postal service or an untracked DUSP parcel service.

A2.51 The first category, a “*relevant letters postal service*”, is defined at E 1.1.2(o) as a service of conveying relevant letters from one place to another by post and the incidental services of receiving, collecting, sorting and delivering relevant letters, excluding:

- i. services for which the postal operator has not received any payment, reward, profit or advantage with respect to the conveyance of the relevant letters;
- ii. services provided by a charity which comprise solely the collection, conveyance and delivery of Christmas cards;
- iii. express and secured services;
- iv. services consisting of the conveyance of relevant letters within a closed user group network;
- v. services provided while acting in the capacity of an intermediary postal operator; and
- vi. services consisting of conveying relevant letters, which have been sent from a location outside of the United Kingdom and which are addressed for delivery to a location outside of the United Kingdom, out of the United Kingdom;

A2.52 The second category of service which is subject to the Essential Condition is an “*untracked DUSP parcel service*”. Under E 1.1.2(w) this refers to a service of conveying postal packets which exceed the dimensions and/or weight of a relevant letter from one place to another by post (and the incidental services of receiving, collecting, sorting and delivering those postal packets), which:

³⁴ Ofcom, 2017. [Essential Condition 1](#).

- i. the universal service provider (currently Royal Mail) is required to provide under a DUSP condition; and
- ii. is not an express or secured service.³⁵

A2.53 Essential Condition 1 sets out:

- an obligation to protect the integrity of mail (E 1.2);
- an obligation to implement and adhere to appropriate policies and procedures (E 1.3);
- an obligation to monitor and review relevant policies and procedures (E 1.4);
- an obligation to record and report incidents (E 1.5);
- a rule requiring relevant postal operators to ensure that their franchisees, agents or sub-contractors also comply with Condition E1.

Consumer Protection Conditions

A2.54 Sections 51 and 52 of the PSA 2011 also empower Ofcom to impose Consumer Protection Conditions on every postal operator, or postal operators of a specified description.

A2.55 Section 51(2) of the PSA 2011 defines a Consumer Protection Condition as a condition that requires the operator to do one or more of the following:

- a) to assume liability in respect of loss of (or damage to) postal packets;
- b) to establish and maintain procedures, standards and policies with respect to “consumer protection matters”, that is:
 - the handling of complaints;
 - the resolution of disputes;
 - the provision of remedies and redress related to such complaints or disputes;
 - the information about service standards and users’ rights; as well as
 - “anything else appearing to Ofcom to be necessary to secure effective protection for those users”.³⁶

A2.56 In March 2012 Ofcom imposed a number of Consumer Protection Conditions, some of which have been updated since. This includes:

³⁵ Under E 1.1.2(g), “*express and secure service*” means a service involving the conveyance of postal packets and any incidental services of collecting, sorting and delivering those postal packets which have at least one of the following features: i. a guarantee for delivery by a certain time or date; ii. a facility enabling the sender and the recipient to monitor the progress of a postal packet through the postal operator’s network, including confirmation of delivery.

³⁶ A Consumer Protection Condition may also impose requirements regarding the payments of expenses of consumer advocacy bodies and of the Secretary of State (s.51(2)(c)-(d) PSA 2011).

- a) Consumer Protection Condition 1³⁷, which governs payments relating to qualifying consumer expenses of the National Consumer Council, Citizens Advice or Citizens Advice Scotland;
- b) Consumer Protection Condition 2³⁸, which sets out the postal common operational procedures (i.e. a code of practice with which relevant postal operators have to comply, covering common operational procedures for handling, among other things, misdirected letters, miscollected letters and misdirected complaints); and
- c) Consumer Protection Condition 4³⁹, which applies only to the universal service provider, outlines obligations in relation to compensation, notification and reporting requirements.

A2.57 Consumer Protection Condition 3 (CP3)⁴⁰, covers complaints handling and redress:

- a) CP 3.2 imposes minimum obligations on all postal operators. It requires them to establish, make available and comply with transparent, simple and inexpensive procedures for dealing with complaints of consumers of postal services, which facilitate the fair and prompt settlement of disputes.
- b) CP 3.3 only applies to the universal service provider and imposes more detailed obligations.

A2.58 CP 3.3.1 requires the universal service provider to establish, make available and comply with a complaints handling procedure in accordance with:

- a) CP 3.2 (as set out above) and
- b) further obligations detailed in CP 3.3.2. These further obligations apply to complaints relating to services that the universal service provider is required to provide under a DUSP condition.

A2.59 These further obligations are listed in CP 3.3.2(a) to (j) and include, amongst other things:

- a) ensuring a complaints handling procedure is in plain and intelligible language;
- b) providing consumers with contact details, information about the investigation process, likely timescales and the complainant's right to refer a consumer complaint to a qualifying redress scheme; and
- c) providing for an internal review of any existing complaints where a consumer is dissatisfied with the way their complaint was handled.

A2.60 The remaining further obligations imposed on the universal service provider are set out in CP 3.3.3 to CP 3.3.17. These include, amongst other things, obligations relating to:

- a) the review of the complaints handling procedure (CP 3.3.3);

³⁷ Ofcom, 2019. [Consumer Protection Condition 1](#) (CP 1.1.1 outlines which postal operators this Consumer Protection Condition applies to).

³⁸ Ofcom, 2017. [Consumer Protection Condition 2](#).

³⁹ Ofcom, 2013. [Consumer Protection Condition 4](#).

⁴⁰ Ofcom, 2017. [Consumer Protection Condition 3](#).

- b) the records to be made by the universal service provider (e.g. upon receipt of a complaint, of any subsequent contact with complainant(s) or when a complaint becomes completed⁴¹) as well as the steps to be taken when a complaint is recorded as a “*completed complaint*” but subsequent contact is received from the complainant disputing this decision (CP 3.3.3 to CP 3.3.6);
- c) the written notices to be sent to complainant(s) (e.g. when the universal service provider becomes aware that a complaint cannot be completed to the complainant’s satisfaction or when the “*specified time period*” has expired)⁴² (CP 3.3.7 to CP 3.3.8);
- d) the level of resources (as may reasonably be required) to enable the universal service provider to receive, handle and process consumer complaints in an efficient and timely manner (CP 3.3.9);
- e) the arrangements to handle complaints received from / on behalf of vulnerable consumers and the additional steps which must be taken to assist these users (CP 3.3.10);
- f) the publication of the complaints handling procedure (in a manner which ensures reasonable publicity for it) and provision of free copies (CP 3.3.11 to CP 3.3.13);
- g) the publication, in the manner set out in CP 3.3.14, of an annual consumer complaints report containing the information described in CP 3.3.15;
- h) the submission to Ofcom and to the Consumer Advocacy Bodies, and publication of quarterly reports detailing the number of consumer complaints received and completed (in the manner specified in CP 3.3.16);

A2.61 CP 3.3.17 further requires the universal service provider to be a member of a “qualifying redress scheme” in relation to consumer complaints about the provision of a relevant postal service.⁴³

⁴¹ Under CP 3.1.2(f) a “*completed complaint*” means a consumer complaint in respect of which there remains no outstanding action to be taken by the postal operator in accordance with its complaint handling procedure.

⁴² Under CP 3.1.2(o) the “*specified time period*” is the maximum period that the universal service provider has to complete a consumer complaint (as outlined in its complaint handling procedure or otherwise agreed with the consumer) before it becomes entitled to refer that complaint to a qualifying redress scheme.

⁴³ Under CP 3.1.2(l) a “*qualifying redress scheme*” means a redress scheme which is approved by Ofcom in accordance with Schedule 5 of the PSA 2011.

A3. Marked up version - Guidance for parcel operators on consumer complaints handling procedures

UNOFFICIAL MARKED UP VERSION OF GUIDANCE FOR PARCEL OPERATORS ON CONSUMER COMPLAINTS HANDLING PROCEDURES

This marked up version of the “Guidance for parcel operators on consumer complaints handling procedures” (Annex 4) is provided as an aid to understanding.

Deletions are marked in red struck-through text. Additions are marked in red.

18 July 2022

Consumer Protection Conditions 3.2 (CP 3.2) states that:

“Postal operators shall establish, make available and comply with transparent, simple and inexpensive procedures for dealing with complaints of consumers of postal services, which facilitate the fair and prompt settlement of disputes”.

For the purpose of this condition, a consumer is ‘any person who uses postal services either as a sender or an addressee’.

Objective of the guidance

This guidance is aimed at ensuring compliance with CP 3.2 by setting out the steps that Ofcom expect postal operators should take when dealing with consumer complaints. One of Ofcom’s regulatory principles is that Ofcom will regulate in a transparent manner. The objective of this guidance is to ensure that postal operators properly understand their obligations under CP 3.2 and what Ofcom would expect from them.

We would normally expect to have regard to this guidance when investigating any potential failure to comply with CP 3.2. Though any enforcement investigation will turn on the specific facts and merit of each case, Ofcom will have regard to this guidance when considering whether, and to what extent, a postal operator may (or may not) be complying with its obligations under CP 3.2.

Although we cannot fetter our discretion as to any future enforcement decision, if we were to depart from the principles set out in this guidance, we would explain our reasons for doing so.

Scope

This guidance describes the steps we expect postal operators to take under CP 3.2, in relation to two specific areas:

- How to ensure clear and easily accessible complaints channels for consumers; and
- How to resolve consumers’ complaints through fair, transparent, and effective processes.

Clear and easily accessible complaints channels for consumers

1. The purpose of CP 3.2 is to ensure the fair and prompt settlement of disputes between consumers and postal operators. To achieve that objective, postal operators must have transparent, simple and inexpensive procedures in place.
2. In assessing whether, and to what extent, complaints procedures meet the above requirements, we will have regard to the steps taken by postal operators to ensure that their complaints procedures are transparent, simple, and inexpensive. We would expect operators to take the following steps to ensure that:
 - it is clear who consumers should contact and what contact channels they can use to make a complaint;
 - contact channels for making complaints are clear and easily accessible; and
 - clear and easily accessible contact channels are available to all consumers (including consumers with additional accessibility needs).
3. **Clear information on who consumers should contact to make a complaint.** Postal operators should ensure that they provide clear information to both senders and addressees of parcels about who to contact to make a complaint. They should also ensure that that information is clearly and prominently set out to consumers (for example on their websites and in any emails or messages sent to consumers).
4. **Clear and easily accessible contact channels.** In ensuring compliance with CP 3.2, we expect postal operators to take steps to ensure that communications channels available to consumers are clear and accessible.

Based on operators' current practices, operators will be expected to include at least some of the following methods of contact (for a complaint to be made): phone number, email, chat function and/or dedicated online form.

Though a postal operator may not offer all of these different types of contact methods, when assessing compliance with CP 3.2, we would expect that any contact channel made available to consumers is prominently displayed by the operator (e.g. on website, email communications), and for operators to ensure that any contact channel is easy for consumers to access and use.

5. **Clear and easily accessible contact channels for all – including for consumers with additional accessibility needs.** The obligation for postal operators to have simple and transparent complaints procedures should benefit all consumers, including those who may have additional accessibility needs. It is essential that contact channels are fully accessible to disabled consumers with additional accessibility needs, for example, for consumers with hearing or sight impairments. We will take account of the steps taken by postal operators in that regard when assessing compliance with CP 3.2.

6. **Clear and timely signposting to retailers' contact and complaints channel.** Where postal operators receive complaints from consumers that need to be dealt with by a retailer, postal operators should provide clear and timely information to the customer regarding the need to contact the retailer, ~~and where possible could signpost to the relevant retailer's complaints channel.~~

Fair, transparent, and effective processes for managing complaints

7. The purpose of CP 3.2 is to facilitate the fair and prompt settlement of disputes between consumers and postal operators. We recognise that operators will have different processes and procedures in place to handle consumer complaints, and that compliance with CP 3.2 will depend on the specific circumstances of each case; however, to achieve the fair and prompt settlement of disputes, we expect that, as a minimum, postal operators will:
- take active steps to handle and investigate a complaint;
 - communicate clearly and in a timely manner with the complainant;
 - ensure that staff are appropriately trained in the handling of consumer complaints; and
 - monitor consumers' satisfaction with complaints processes and procedures.
8. **Prompt and effective management of complaints.** Postal operators should aim to ensure any complaint is resolved to the complainant's reasonable satisfaction in a prompt and timely manner. In practice this means that an operator should promptly take, and continue to promptly take, active steps to ensure the complaint is either resolved or otherwise fairly settled.

The purpose of CP 3.2 is to ensure that operators have complaints procedures in place to facilitate the fair settlement of disputes. When investigating potential failures to comply with CP 3.2, we will take account of any internal processes (e.g. internal review; escalation) a parcel operator has put in place to address consumers' concerns (or dissatisfaction) with the way their complaint has been dealt with.

9. **Clear, timely communication with customers.** To ensure that disputes are settled fairly and promptly, we would expect that communications with consumers should be clear and easy to understand, and appropriately responsive to the individual customer's complaint.

For example, we consider that it would be reasonable to expect that, after having received a complaint **that cannot be resolved immediately**, the postal operator promptly inform the complainant of: (a) the process it will follow to investigate the complaint with a view to resolving it fairly; and (b) the timeframes in which the postal operator will endeavour to carry out its handling of the complaint. **For complaints that were not resolved immediately,** **A**after the postal operator has investigated the complaint, we would expect that it promptly communicates the outcome of its investigation to the complainant, and where necessary, sets out what compensation or redress will be provided (if any). **For complaints resolved**

immediately (for example, over the phone), we would expect the postal operator to make clear to the customer that it considers the complaint closed.

10. **Staff training on complaints handling.** Postal operators should ensure that all staff who communicate with customers receive appropriate training on how to identify a complaint, how to manage effectively the complaints process, and how to communicate appropriately with customers. Postal operators should also train relevant staff to deal appropriately with a complainant's specific accessibility or communication needs. Where 'chat bots' are used as part of the process they must also be highly capable of identifying complaints and dealing with additional accessibility needs. In the context of any investigation under CP 3.2, we would expect to take account of any relevant training materials an operator has put in place to train staff on complaints handling processes and procedures.
11. **Monitoring outcomes and retaining records.** Postal operators should have systematic methods in place for recording and monitoring customers' satisfaction with the resolution to their complaint. We would expect operators to regularly review the level of customers' satisfaction with complaints procedures, and to modify and improve existing processes and procedures as necessary to ensure compliance with CP 3.2.

We would expect operators to retain any internal records and data necessary to effectively monitor the way complaints are being handled and compliance with CP 3.2. For example, we consider it reasonable to expect that operators will keep internal records of the number of complaints that have been received, resolved and unresolved (or escalated) over a specific period (e.g. monthly). We would also expect operators to record and monitor the time taken to resolve or otherwise fairly settle complaints.

We would expect parcel operators to keep records and data that are necessary to ensure that individual complaints are being dealt with appropriately and in accordance with the operators' complaint procedures and processes. This would include, for example, the date on which an individual complaint is received, the date on which the complaint was resolved or otherwise fairly settled, the identity and contact details of the complainant, a description of what the complaint is about as well as the resolution provided and any further communications made (or received) by the complainant. We would also expect parcel operators to be able to demonstrate their compliance with CP 3.2 and as such to maintain internal records and data for a reasonable time period (subject to data protection requirements).