

Annex 13

Statutory Notification: proposed modification of Essential Condition 1

NOTIFICATION OF PROPOSALS TO MODIFY REGULATORY CONDITIONS IN ACCORDANCE WITH SECTION 49 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- (A) On 27 March 2012, following a consultation, OFCOM published a statement entitled “*Securing the Universal Postal Service: Decision on the new regulatory framework*”¹ (the “**2012 Statement**”) setting out various decisions, including the imposition of regulatory conditions under section 49 of the Postal Services Act 2011 (the “**Act**”). Amongst the conditions imposed was Essential Condition 1 (“**Essential Condition 1**”).
- (B) On 1 April 2014, following a consultation, Ofcom published a statement entitled ‘*Amendments to regulatory conditions DUSP 1.8 and CP 1 and minor amendments to other regulatory conditions*’² setting out various decisions, including the decision to modify Essential Condition 1 (the “**2014 Modification**”).³ In the 2014 Modification, Ofcom explained that this revised version replaced the previous published version notified in the 2012 Statement and took effect when that notification was published.

PROPOSAL

1. OFCOM hereby proposes, in accordance with section 49 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers and duties in section 49 of the Act, to revoke Essential Condition 1 and replace it with a new essential condition to make further provision about matters set out in section 49 of the Act.
2. The proposed new Essential Condition 1 is specified in the Schedule, marked up against the existing condition to show the changes which are proposed, as highlighted in red text.
3. The effect of, and OFCOM’s reasons for making, this proposal are set out in the accompanying consultation document.

Ofcom’s duties and legal tests

4. OFCOM is satisfied that this proposal satisfies the general test in paragraph 1 of Schedule 6 to this Act.
5. In making this proposal, OFCOM have considered and acted in accordance with their principal duty in section 29 of the Act and their general duties in section 3 of the Communications Act 2003.

¹ <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/statement.pdf>

² <http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/Statement.pdf>

³ http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/statement_e1.pdf

Making representations

6. Representations may be made to OFCOM about the proposal set out in this Notification by no later than 3 August 2016.
7. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act.
8. By virtue of paragraph 3(5) of Schedule 6 to the Act, OFCOM may give effect, with or without modifications, to a proposal with respect to which it has published a notification only if OFCOM has—
 - (a) considered every representation about the proposal that is made to OFCOM within the period specified in this Notification; and
 - (b) had regard to every international obligation of the United Kingdom (if any) which has been notified to OFCOM for this purpose by the Secretary of State.

Interpretation

9. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act or for the purpose of Essential Condition 1 (as relevant).
10. In this Notification—
 - (a) “**2012 Statement**” has the meaning given to it in recital (A) to this Notification;
 - (b) “**2014 Modification**” has the meaning given to it in recital (B) to this Notification;
 - (c) “**Act**” means the Postal Services Act 2011 (c.5); and
 - (d) “**Essential Condition 1**” means consumer protection condition referred to in recital (A) to this Notification as modified and replaced by the 2014 Modification.
11. For the purpose of interpreting this Notification—
 - (a) headings and titles shall be disregarded;
 - (b) expressions cognate with those referred to in this Notification shall be construed accordingly;
 - (c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.

12. The Schedule to this Notification shall form part of this Notification.

Signed by

A handwritten signature in blue ink, appearing to read 'Jonathan Oxley', is written in a cursive style.

Jonathan Oxley

Group Director, Competition Group

A person duly authorised by OFCOM under paragraph 18 of the Schedule to the Office of Communications Act 2002

25 May 2016

Schedule

Proposed modification of Essential Condition 1

ESSENTIAL CONDITION 1

1.1. Application, Definitions and Interpretation

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| E 1.1.1 | This Essential Condition shall apply to regulated <u>relevant</u> <u>postal operators</u> . |
| E 1.1.2 | <p>In this Essential Condition—</p> <p>(a) “access operator” means a <u>postal operator</u> that is party to a <u>USP Access Agreement</u> with the <u>universal service provider</u>;</p> <p>(a)(b) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(b)(c) “Appointed Day” means 1 October 2011;</p> <p>(d) “closed user group network” means a system providing for the conveyance of <u>postal packets</u> (and the incidental services of receiving, collecting, sorting and delivering <u>postal packets</u>) between:</p> <ul style="list-style-type: none">i. the premises of one firm and another firm;ii. a government department and a third party firm;iii. branches and/or units in the same firm; oriv. government departments, <p>where both the sender and the recipient of the <u>postal packets</u> have entered into specific arrangements with the <u>postal operator</u> for the conveyance of <u>postal packets</u> to or from other members of that system, which, for the avoidance of doubt, includes a document exchange;</p> <p>(c)—“Code Postal Packet” means a <u>postal packet</u> conveyed in the provision of a <u>regulated postal service</u> or a <u>universal service</u>;</p> <p>(d)(e) “Consumer Advocacy Bodies” means Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;</p> <p>(e)(f) “damage” means, in relation to a Code Postal Packet<u>relevant letter</u>, any physical damage to a Code Postal Packet <u>relevant letter</u> (other than damage caused by interference or accidental damage) occurring after the time of acceptance of that Code Postal Packet <u>relevant letter</u> by the <u>relevant regulated postal operator</u> and before its delivery to the person to whom or at the premises to which it is addressed;</p> <p>(g) “DUSP condition” means a designated USP condition imposed under s.36 of the Act;</p> |

(h) “**express and secured 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;

~~(f)~~**(i)** “**interference**” means interference with a Code Postal Packet relevant letter contrary to sections 83 or 84 of the Postal Services Act 2000;

(j) “**intermediary postal operator**” means an access operator or any other postal operator that hands over postal packets to another postal operator (including but not limited to the universal service provider) for subsequent conveyance and delivery to the intended recipients of the postal packets;

~~(g)~~**(k)** “**loss**” means the physical loss of a Code Postal Packet relevant letter, other than as a result of:

- i. having been stolen,
- ii. being incorrectly addressed,

at any time after the acceptance of that Code Postal Packet relevant letter by the regulated relevant postal operator and before its delivery to the person to whom or at the premises to which it is addressed. Save where the context otherwise indicates, loss includes a failure by the regulated relevant postal operator to deliver that Code Postal Packet relevant letter within 15 working days of its due day of delivery;

~~(h)~~ “**Mail Integrity Code**” means the document of that name annexed in this Condition;

~~(i)~~**(l)** “**Mail Integrity Objectives**” has the meaning given by in paragraph 1.1 E1.2.1 of the Mail Integrity Code;

~~(j)~~**(m)** “**public holiday**” includes, in relation to a particular territory, any day in relation to which OFCOM has by direction stated that exceptional circumstances require it to be treated as a public holiday;

~~(k)~~ “**Regulated postal operator**” means a postal operator which provides services in relation to which, had those services been carried out prior to the Appointed Day, it would have been required to hold a licence under the Postal Services Act 2000;

~~(l)~~ “**Regulated postal service**” means a postal service the provision of which, had it been carried out prior to the Appointed Day, would have required the provider to hold a licence under the Postal Services Act 2000.

- ~~(mn)~~ **“relevant employees”** means permanent, temporary, casual or part time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling Code Postal Packets relevant letters or who are reasonably likely to have access to Code Postal Packets relevant letters in the course of their work;
- (o)** **“relevant letter”** means a postal packet that is up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g
- (p)** **“relevant letters postal service”** means 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 relevant 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;
- (q)** **“relevant period”** means any year beginning on 1 April and ending on 31 March;
- (r)** **“relevant postal operator”** means a postal operator that provides a relevant postal service;
- (s)** **“relevant postal packet”** means a postal packet which is conveyed in the provision of a relevant postal service;
- (t)** **“relevant postal service”** means a relevant letters postal service or an untracked DUSP parcel service;
- ~~(m)~~ **“Relevant year”** means ~~any year beginning on 1 April;~~
- ~~(n)~~ **“Royal Mail”** means ~~Royal Mail Group Limited (registered number 4138203)~~
- ~~(o)~~ **“Serious Incident”** has the meaning given in paragraph 2.6 of the ~~Mail Integrity Code~~;
- ~~(p)~~**(u)** **“stolen”** means misappropriated contrary to the Theft Act 1968;

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| | <p>(v)(v) “theft” means misappropriation contrary to the Theft Act 1968;</p> <p>(w) “untracked DUSP parcel service” means a service of conveying <u>postal packets</u> which exceed the dimensions and/or weight of a <u>relevant letter</u> from one place to another by post (and the incidental services of receiving, collecting, sorting and delivering those <u>postal packets</u>), which:</p> <ol style="list-style-type: none"> i. the <u>universal service provider</u> is required to provide under a <u>DUSP condition</u>; and ii. is not an <u>express or secured service</u>; <p>(x) “USP Access Agreement” means an agreement under which the <u>universal service provider</u> provides access to its <u>postal network</u> in accordance with requirements set out in a <u>condition imposed under section 38 of the Act</u>;</p> <p>(y)(y) “working day” means any day which is not a Sunday or a <u>public holiday</u>.</p> |
| E 1.1.3 | <p>For the purpose of interpreting this Essential Condition—</p> <ol style="list-style-type: none"> (a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act⁴; (b) headings and titles shall be disregarded; (c) expressions cognate with those referred to in this Essential Condition shall be construed accordingly; (d) the Interpretation Act 1978 (c. 30) shall apply as if this Essential Condition were an Act of Parliament; (e) references to a day are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday, a Bank Holiday, Christmas Day, Good Friday or other public holiday (f) the following shall be deemed to be directions issued by <u>OFCOM</u> agreeing that a day should be treated as a <u>public holiday</u> for the purposes of the definition of “public holiday” in this Essential Condition: <ul style="list-style-type: none"> • <i>Exceptions to Royal Mail’s universal service obligation – for 26 December 2009 in the UK, bank holidays on Saturdays in the UK, as local holidays in Northern Ireland and Scotland: a decision document</i> (Postal Services Commission, October 2009). |

1.2. Obligation to ~~comply with the Mail Integrity Code~~ protect the integrity of mail

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| <u>E 1.2.1</u> | <p>Unless OFCOM otherwise consents, a regulated postal operator shall at all time comply with the <u>Mail Integrity Code</u>.</p> <p>For the purposes of this Condition E.1, any consent issued and not withdrawn by the Postal Services Commission prior to the <u>Appointed Day</u>, relating to:</p> <p>(a) Condition 8 of the licence held by Royal Mail under the <u>Postal Services Act 2000</u> immediately before the <u>Appointed Day</u>; or</p> <p>(b) Condition 3 of the licence held by any other postal operator under the <u>Postal Services Act 2000</u> immediately before the <u>Appointed Day</u>;</p> <p>Shall be deemed to be consent issued by OFCOM under this <u>Condition</u>.</p> |
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⁴A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness

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| E 1.2.1 | <p>A <u>relevant postal operator</u> shall protect the integrity of mail by:</p> <p>(a) taking all necessary steps to minimise the exposure of <u>relevant postal packets</u> to the risk of loss, theft, damage and/or interference; and</p> <p>(b) taking all necessary steps to address mail integrity issues promptly when they arise (the “Mail Integrity Objectives”).</p> |
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1.3 Obligation to implement and adhere to appropriate policies and procedures

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| E 1.3.1 | <p>For the purpose of achieving compliance with the <u>Mail Integrity Objectives</u>, a <u>relevant postal operator</u> shall establish, maintain and adhere to policies and procedures which satisfy the requirements of E 1.3.2 to E 1.3.5.</p> <p>In designing the relevant policies and procedures, a <u>relevant postal operator</u> shall have regard to the need to ensure that they are proportionate to the scale of the <u>relevant postal services</u> undertaken by the <u>relevant postal operator</u> and the level of risk to mail integrity in relation to the activities concerned.</p> |
| E 1.3.2 | <p>Recruitment of relevant employees: a <u>relevant postal operator</u> shall establish, maintain and adhere to a recruitment policy in relation to the employment or use of <u>relevant employees</u> designed to facilitate the achievement of the <u>Mail Integrity Objectives</u>.</p> |

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| E 1.3.3 | Training Relevant Employees: a <u>relevant postal operator</u> shall establish, maintain and adhere to a training policy that provides for <u>relevant employees</u> to receive initial and ongoing training so as to facilitate achievement of the <u>Mail Integrity Objectives</u> . This must cover: (a) ensuring <u>relevant employees</u> are informed of the provisions of sections 83 and 84 of the Postal Services Act 2000 and made aware of the seriousness of the offences detailed in those sections; and (b) making <u>relevant employees</u> aware of the standards of conduct in relation to facilitating achievement of the <u>Mail Integrity Objectives</u> the regulated postal operator requires relevant employees to meet. |
| E 1.3.4 | Disciplinary Procedures: a <u>relevant postal operator</u> shall establish, maintain and adhere to a disciplinary policy in relation to the treatment of <u>relevant employees</u> who fail to meet the standards of conduct expected of them in relation to mail integrity. |
| E 1.3.5 | Security of Mail: a <u>relevant postal operator</u> shall establish, maintain and adhere to policies and procedures for ensuring the secure conveyance, receipt, collection, sortation, delivery or other handling of relevant letters, which shall in particular relate to the security of relevant premises, and the use of vehicles and equipment in the collection, conveyance or delivery of <u>relevant postal packets</u> . |
| E 1.3.6 | A <u>relevant postal operator</u> shall comply with any direction made by <u>OFCOM</u> requiring the <u>relevant postal operator</u> to adopt such policies or procedures or take such steps as <u>OFCOM</u> considers necessary for the purposes of facilitating the achievement of the <u>Mail Integrity Objectives</u> . |

1.4 Obligation to monitor and review relevant policies and procedures

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| E 1.4.1 | A <u>relevant postal operator</u> shall monitor and regularly review compliance with the policies and procedures it has put in place in accordance with E 1.3.1. |
| E 1.4.2 | A <u>relevant postal operator</u> must regularly review and where necessary update or amend the policies and procedures it has put in place in accordance with E 1.3.1 to ensure that they remain appropriate to facilitate the achievement of the <u>Mail Integrity Objectives</u> . |

1.5 Obligation to record and report incidents

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| E 1.5.1 | A relevant postal operator shall record separately each incident of <u>loss</u> or <u>theft</u> of, <u>damage to</u> , or <u>interference with relevant postal packets</u> as soon as reasonably practicable after becoming aware of the occurrence of such incident. Such records shall be retained for a minimum of three years from the date on which the incident occurred and shall include: (a) the date, time and place of the incident (or where not known precisely, any information that the <u>relevant postal operator</u> has that |
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| | <p>indicates the approximate date, time or place of the incident);</p> <p>(b) the number of (or where the precise number is not known, a reasonable estimate of the number of and details of the methodology used for the purposes of preparing the estimates of) <u>relevant postal packets</u> involved in the incident;</p> <p>(c) any other particulars relating to the incident which it would be reasonable to record, including a concise explanation of the factual circumstances of the incident and whether the incident forms part of a discernible trend; and</p> <p>(d) any actions taken as a result of the incident.</p> |
| E 1.5.2 | A <u>relevant postal operator</u> shall provide copies of any records made for the purposes of [E 1.5.1] as soon as reasonably practicable in response to a request by <u>OFCOM</u> for such records. |
| E 1.5.3 | <p>A <u>relevant postal operator</u> which handled more than 250,000 <u>relevant postal packets</u> in the most recent completed <u>relevant period</u> shall submit to <u>OFCOM</u> and the <u>Consumer Advocacy Bodies</u> reports within three months of the end of the <u>relevant period</u> regarding each incident of <u>loss</u> or <u>theft</u> of, <u>damage</u> to, or <u>interference</u> with <u>relevant postal packets</u>. The reports shall include:</p> <p>(a) the total number of incidents that occurred and the total number of relevant postal packets involved in all incidents during the relevant period;</p> <p>(b) for each individual incident identified in the relevant period, the corresponding number of (or where precise numbers are not known, reasonable estimates of the numbers of and details of the methodology used for the purposes of preparing the estimates of) relevant postal packets involved in the incident broken down according to whether the relevant postal packets involved in the incident were lost, stolen, damaged, or interfered with;</p> <p>(c) the total number of any prosecutions in relation to offences in connection with mail integrity which that relevant postal operator has instigated in the relevant period; and</p> <p>(d) a statement of the measures that the relevant postal operator intends to take to remedy any failures or patterns of failure to achieve the Mail Integrity Objectives and to reduce the numbers of relevant postal packets lost, stolen, damaged or interfered with.</p> |

1.6 Franchisees, agents and sub-contractors

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| E 1.6.1 | <p>A <u>relevant postal operator</u> shall ensure that, so far as is reasonably practicable, all of:</p> <p>(a) its franchisees, agents or sub-contractors (if any) who are involved in the conveyance, receipt, collection, sortation, delivery or handling of <u>relevant postal packets</u>, comply with this Condition E1 as if this Condition E1 applied to the franchisee, agent or sub-contractor; and</p> <p>(b) its agents or sub-contractors (if any) who are responsible for</p> |
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| | providing <u>relevant employees</u> to work for the <u>relevant postal operator</u> , comply with this Condition E1 as if this Condition E1 applied to such agent or sub-contractor. |
| E 1.6.2 | Where the franchisee, agent or sub-contractor is a <u>relevant postal operator</u> , it shall be sufficient for the <u>relevant postal operator</u> which lets the franchisee, appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of this Condition E1 to that <u>relevant postal operator</u> in fulfilment of its obligations under this Condition E1 in respect of <u>relevant postal packets</u> from the point of physical handover of such <u>relevant postal packets</u> and for so long as the <u>relevant postal packets</u> remain in the physical possession of that franchisee, agent or sub-contractor. |

This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

| Defined term | Section |
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| <i>OFCOM</i> | <i>s.90</i> |
| <i>postal operator</i> | <i>s.27(3)</i> |
| <i>postal network</i> | <i>s.38(3)</i> |
| <i>postal packet</i> | <i>s.27(2)</i> |
| <i>postal services</i> | <i>s.27(1)</i> |
| <i>universal service provider</i> | <i>s.65(1) and Schedule 9 paragraph 3(3)</i> |

Annex to Essential Condition 1 – Mail Integrity Code

Protecting the Integrity of Mail – A Code of Practice

1 — Introduction

1.1 — This is the Code of Practice covering the protection of the integrity of mail. Its purpose is to achieve the following objectives (the "Mail Integrity Objectives"):

- (a) — minimising the exposure of Code Postal Packets to the risk of loss, theft, damage and/or interference; and
- (b) — maintaining and improving regulated postal operators' performance in respect of the matters referred to in paragraph 1.1(a).

1.2 — This Code sets out the requirements and procedures to be followed in order to satisfy the Mail Integrity Objectives.

1.3 — This Code applies to:

- (a) — regulated postal operators; and
- (b) — all Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by regulated postal operators.

1.4 — Regulated postal operators should allocate responsibility to specific personnel

~~within their organisations for implementation of and compliance with this Code.~~

~~1.5 — In meeting their obligations under this Code, regulated postal operators should have due regard to the size and nature of their organisations and operations.~~

~~2 — **Definitions and rules of interpretation**~~

~~2.1 — In this Code, unless the context requires otherwise, the words include, including and in particular are to be construed as being by way of illustration or emphasis and do not limit or prejudice the generality of any foregoing words. The singular includes the plural and vice versa.~~

~~2.2 — Nothing in this Code is to be construed as requiring a regulated postal operator to act unlawfully (for example, by breaching employment law in meeting the recruitment and vetting requirements set out in paragraph 3 of this Code).~~

~~2.3 — This Code shall not be interpreted in any way which is inconsistent with the Mail Integrity Objectives.~~

~~2.4 — Where this Code requires a policy to be established, that policy must be in writing and a copy must be given to the specific personnel within the regulated postal operator's organisation who are responsible for implementation of and compliance with the policy.~~

~~2.5 — Where this Code requires regulated postal operators to allocate responsibility to specific personnel within their organisations to be responsible for implementation of and compliance with this Code (including any policy required by this Code), the personnel responsible for implementation may be different from those responsible for compliance.~~

~~2.6 — A **serious incident** for the purpose of this Code is an incident in relation to which the percentage of Code Postal Packets lost, stolen, damaged or interfered with in one incident exceeds 10% of the total volume of Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by a Relevant Employee that day.~~

~~3 — **Recruitment of Relevant Employees**~~

~~3.1 — If a regulated postal operator employs or uses (or intends to employ or use) Relevant Employees, the regulated postal operator must:~~

~~(a) — establish, maintain and adhere to a recruitment policy in relation to the employment or use of Relevant Employees designed to facilitate the achievement of the Mail Integrity Objectives; and~~

~~(b) — allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that recruitment policy.~~

~~3.2 — The recruitment policy should include:~~

- ~~(a) — an explanation of the jobs, roles or types of work, as the case may be, in respect of which the recruitment policy should apply;~~
- ~~(b) — the types of information about a prospective Relevant Employee that the regulated postal operator requires;~~
- ~~(c) — the steps that the regulated postal operator requires to be taken to satisfy itself of the identity of the prospective Relevant Employee;~~
- ~~(d) — the steps which the regulated postal operator expects to be taken in order to confirm a prospective Relevant Employee's work history over at least the immediately preceding 5 years (or the entire period of that Relevant Employee's working life, if that period is shorter than 5 years);~~
- ~~(e) — a requirement for prospective Relevant Employees to declare any criminal convictions or any cautions or conditional discharges for offences relating to:
 - ~~(i) postal packets; or~~
 - ~~(ii) dishonest conduct generally (in particular, theft, obtaining property by deception or fraud)~~~~

~~and guidelines on how any such convictions, cautions or conditional discharges declared by prospective Relevant Employees will be taken into consideration in deciding whether or not to employ the prospective Relevant Employee.~~

~~3.3 — For the avoidance of doubt, in respect of any regulated postal operator's existing permanent, temporary, casual or part-time employee or worker (including those under a contract for service) who is not (or might not be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling Code Postal Packets in the course of his or her work and who is to be redeployed such that he or she will (or might be) so involved, such redeployment should be treated for the purposes of this paragraph 3 as effectively the employment or use of that individual as a Relevant Employee and be subject to the other provisions of this paragraph 3.~~

~~3.4 — Regulated postal operators must reasonably regularly monitor implementation of and compliance with the recruitment policy.~~

~~3.5 — Regulated postal operators must reasonably regularly review the recruitment policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.~~

~~4 — Training Relevant Employees~~

~~4.1 — If a regulated postal operator employs or uses Relevant Employees, the regulated postal operator must:~~

- ~~(a) — establish, maintain and adhere to a training policy that provides for Relevant Employees to receive initial and ongoing training so as to facilitate achievement of the Mail Integrity Objectives; and~~
- ~~(b) — allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that policy.~~

~~4.2 — Without prejudice to the generality of paragraph 4.1, all Relevant Employees must be informed of the provisions of sections 83 and 84 of the Postal Services Act 2000 and made aware of the seriousness of the offences detailed in those sections.~~

~~4.3 — The training policy should include:~~

- ~~(a) — the levels of training required to facilitate achievement of the Mail Integrity Objectives;~~
- ~~(b) — the levels of training required according to the differing responsibilities of, and work undertaken by, Relevant Employees in relation to Code Postal Packets;~~
- ~~(c) — details of the minimum level of training required;~~
- ~~(d) — an explanation of how the training will be provided;~~
- ~~(e) — the frequency with which training should be provided; and~~
- ~~(f) — details of how training is to be given, recorded and monitored.~~

~~4.4 — Regulated postal operators must reasonably regularly monitor implementation of and compliance with the training policy.~~

~~4.5 — Regulated postal operators must reasonably regularly review the training policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.~~

~~5 — **Disciplinary Procedures**~~

~~5.1 — If a regulated postal operator employs or uses Relevant Employees, the regulated postal operator must:~~

- ~~(a) — make Relevant Employees aware of the standards of conduct in relation to facilitating achievement of the Mail Integrity Objectives the regulated postal operator requires Relevant Employees to meet; and~~
- ~~(b) — establish, maintain and adhere to a disciplinary policy in relation to the treatment of Relevant Employees who fail to meet the standards of conduct expected of them.~~

~~5.2 — The standards of conduct and disciplinary policy should be such as to facilitate achievement of the Mail Integrity Objectives.~~

~~5.3 — Regulated postal operators must allocate responsibility to specific personnel~~

~~within their organisations for:~~

- ~~(a) — making Relevant Employees aware of the standards of conduct expected of them; and~~
- ~~(b) — the implementation of and compliance with the disciplinary policy.~~

~~5.4 — The disciplinary policy should include:~~

- ~~(a) — an explanation of what constitutes a failure to meet the standards of conduct and the action to be taken in relation to any failures;~~
- ~~(b) — an explanation of how the regulated postal operator ensures that all Relevant Employees understand when a failure to meet the standards of conduct might also constitute a criminal offence and how this will be dealt with;~~
- ~~(c) — provision for appropriate records to be maintained detailing any action taken against Relevant Employees for failure to meet the standards of conduct; and~~
- ~~(d) — a process to identify consistent failure to meet the relevant standards of conduct and the taking of appropriate remedial action.~~

~~5.5 — Regulated postal operators must reasonably regularly monitor implementation of and compliance with the:~~

- ~~(a) — standards of conduct; and~~
- ~~(b) — disciplinary policy.~~

~~5.6 — Regulated postal operators must reasonably regularly review the:~~

- ~~(a) — standards of conduct; and~~
- ~~(b) — disciplinary policy~~

~~and, where necessary, update or amend the standards of conduct or disciplinary policy, as the case may be, to ensure that they continue to meet the Mail Integrity Objectives.~~

~~6 — Security of Mail~~

~~6.1 — Notwithstanding the other requirements of this Code, regulated postal operators must establish, maintain and adhere to such other policies and procedures as may reasonably be necessary to facilitate achievement of the Mail Integrity Objectives, in particular in relation to the security of relevant premises, and the use of vehicles and equipment in the collection, conveyance or delivery of Code Postal Packets.~~

~~6.2 — Regulated postal operators must allocate responsibility to specific personnel within their organisations for the implementation of and compliance with the~~

~~policies and procedures specified in paragraph 6.1.~~

~~6.3—The policies and procedures should include:~~

- ~~(a) regular risk assessment;~~
- ~~(b) the maintenance of records so that regulated postal operators can identify, as far as is reasonably practicable, which Relevant Employees were responsible for the conveyance, receipt, collection, sortation, delivery or handling of specific Code Postal Packets that have been interfered with; and~~
- ~~(c) the measures to be taken, including monitoring, to prevent or detect loss or theft of, damage to, or interference with, Code Postal Packets from or at premises, vehicles or equipment.~~

~~6.4—Regulated postal operators must reasonably regularly review the policies and procedures and, where necessary, update or amend those policies and procedures to ensure that they continue to meet the Mail Integrity Objectives.~~

~~7—Information and Reporting Requirements~~

~~7.1—All incidents of loss or theft of, damage to, or interference with Code Postal Packets must be recorded in reasonable detail.~~

~~7.2—Without prejudice to the generality of paragraph 7.1, information to be recorded in relation to Serious Incidents includes:~~

- ~~(a) the date, time and place of the incident;~~
- ~~(b) the number of (or where the precise number is not known, a reasonable estimate of the number of) Code Postal Packets the subject of the incident;~~
- ~~(c) as far as is reasonably practicable, the Relevant Employees involved in the conveyance, receipt, collection, sortation, delivery or handling, as the case may be, of the Code Postal Packets the subject of the incident; and~~
- ~~(d) any other particulars relating to the incident which it would be reasonable to record, including the factual circumstances in which the incident occurred.~~

~~7.3—Incidents which constitute Serious Incidents (together with details of the date, time and place of the incident and the number of, or a reasonable estimate of the number of, Code Postal Packets the subject of the incident) are to be reported to OFCOM as soon as reasonably practicable and, in any event, within 48 hours of the regulated postal operator becoming aware of their occurrence. The information required to be recorded in accordance with paragraphs 7.2(c) and 7.2(d) and any other information in relation to the incident that OFCOM may require should be reported to OFCOM as soon as reasonably practicable.~~

~~7.4 — In respect of each period of three months in any year (each year ending on 31 March), each regulated postal operator must submit to OFCOM (as soon as reasonably practicable, and in any event within 28 days, after the end of each such period) a report detailing any prosecutions which that regulated postal operator has instigated in the relevant period and provide such information in relation to any relevant incident and prosecution that OFCOM may require.~~

~~7.5 — Regulated postal operators must reasonably regularly review the information recorded under this paragraph 7 with a view to identifying any trends, patterns or other notable features (such as above average incident levels at certain premises).~~

~~7.6 — Regulated postal operators must submit to OFCOM and the Consumer Advocacy Bodies annual reports not later than 3 months from the end of the year (being 31 March) to which those reports relate, which include:~~

~~(a) the number of (or where precise numbers are not known, reasonable estimates of the numbers of) Code Postal Packets during the relevant year which were lost, stolen, damaged or interfered with; and~~

~~(b) details of any trends, patterns or other notable features (such as above average incident levels at certain premises) in relation to the incidence of loss or theft of, damage to, or interference with, Code Postal Packets.~~

~~For the purposes of these reports, the references to “lost” and “loss” exclude items that are delivered after 15 working days of their due day of delivery and within the reporting year. Such items are to be reported in these reports as “substantially delayed”.~~

~~7.7 — Regulated postal operators must also submit to OFCOM and the Consumer Advocacy Bodies with each annual report submitted under paragraph 7.6, a statement of the measures that the regulated postal operator intends to take to remedy any failures or patterns of failure to achieve the Mail Integrity Objectives and to reduce the numbers of Code Postal Packets lost, stolen, damaged or interfered with.~~

~~7.8 — Regulated postal operators must allocate responsibility to specific personnel within their organisations for meeting the recording, reporting and other requirements of this paragraph 7.~~

~~8 — Agents and Sub-Contractors~~

~~8.1 — Each regulated postal operator shall ensure that, so far as is reasonably practicable, all of:~~

~~(a) its franchisees, agents or sub-contractors (if any) who are involved in the conveyance, receipt, collection, sortation, delivery or handling of Code Postal Packets, comply with this Code as if this Code applied to the franchisee, agent or sub-contractor; and~~

~~(b) its agents or sub-contractors (if any) who are responsible for~~

~~providing Relevant Employees to work for the regulated postal operator, comply with this Code as if this Code applied to such agent or sub-contractor.~~

~~8.2 Where the franchisee, agent or sub-contractor is a regulated postal operator, it shall be sufficient for the regulated postal operator which lets the franchisee, appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of this Code to that regulated postal operator in fulfilment of its obligations under paragraph 8.1(a).~~

~~Table of terms defined in the Act~~

~~This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.~~

| Defined term | Section |
|---------------------------------------|--|
| letter | 65(1) |
| OFCOM | 90 |
| postal packet | 27(2) |
| universal service provider | 65(1) and Schedule 9 paragraph 3(3) |