

**CONSUMER PROTECTION CONDITION 2<sup>1</sup>:  
POSTAL COMMON OPERATIONAL PROCEDURES**

**1. Application, Definitions and Interpretation**

<b>CP 2.1.1</b>	This consumer protection condition (“ <b>CP Condition</b> ”) shall apply to <u>regulated postal operators</u> .
<b>CP 2.1.2</b>	<p>In this CP Condition—</p> <p>(a) “<b>Access Indicator</b>” means the Customer Access Indicator and the <u>Royal Mail Access Indicator</u> as those terms are defined in the relevant <u>USP Access Agreement</u>;</p> <p>(b) “<b>Access Party</b>” means a <u>regulated postal operator</u> (other than the <u>universal service provider</u>) that is party to a <u>USP Access Agreement</u>;</p> <p>(c) “<b>Act</b>” means the Postal Services Act 2011 (c.5);</p> <p>(d) “<b>appointed day</b>” means 1 October 2011;</p> <p>(e) “<b>Code Identifier</b>” means such mark, number or other identifier unique to each <u>regulated postal operator</u> as may be allocated and notified to each <u>regulated postal operator</u> from time to time prior to the <u>Appointed Day</u> by the Postal Services Commission or, from the <u>Appointed Day</u>, by <u>OFCOM</u>;</p> <p>(f) “<b>Code Letter</b>” means</p> <p style="margin-left: 20px;">(a) in the case of the <u>universal service provider</u> and a <u>regulated postal operator</u> acting in the capacity of an <u>Access Party</u> or <u>Intermediary</u>, a <u>postal packet</u> which is no larger than 460mm by 610mm by 460mm (or, if a tubular <u>postal packet</u>, the length plus twice the diameter does not exceed 1040mm with a maximum length of 900mm), and no heavier than 2kg;</p> <p style="margin-left: 20px;">(b) in the case of any other <u>regulated postal operator</u> (including an <u>Access Party</u> or <u>Intermediary</u> not acting in the capacity of <u>Access Party</u> or <u>Intermediary</u>), a <u>Letter</u> which:</p> <p style="margin-left: 40px;">(i) is conveyed in consideration of a payment of not more than £1 made by or on behalf of the person for whom it is conveyed; and</p> <p style="margin-left: 40px;">(ii) weighs less than 350 grams;</p> <p style="margin-left: 20px;">(c) any <u>postal packet</u> deemed to be a <u>Code Letter</u> in accordance with CP 2.3.12 of this CP Condition;</p> <p>(g) “<b>Code Objectives</b>” means the objectives set out in CP 2.3.1;</p> <p>(h) “<b>complainant</b>” means a person who has made a <u>complaint</u>;</p>

<sup>1</sup> As of 1 April 2014.

- (i) **“complaint”** means any expression of dissatisfaction made to a postal operator, related to one or more of its products or services or the manner in which the postal operator has dealt with any such expression of dissatisfaction, where a response is explicitly or implicitly required or expected to be provided;
- (j) **“Consumer Advocacy Bodies”** means Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;
- (k) **“Indicator”** means in the case of an Access Party acting in that capacity, the relevant Access Indicator, and in all other cases, a payment indicator such as PPI;
- (l) **“Intended Operator”** means the regulated postal operator which, in accordance with arrangements agreed between that regulated postal operator and its customer, is responsible for the conveyance and delivery of the Relevant Code Letters;
- (m) **“Intermediary”** means a regulated postal operator (other than an Access Party) that is party to arrangements with the universal service provider under which that regulated postal operator delivers Postal Packets to the universal service provider for subsequent conveyance;
- (n) **“Letter”** has the meaning ascribed to it in the Act but excludes parcels;
- (o) **“Miscollected Code Letters”** means Code Letters which have been collected in error by a regulated postal operator which is not the Intended Operator;
- (p) **“Misdirected Code Letters”** means Code Letters, other than Miscollected Code Letters (but, for the avoidance of doubt, including Mispasted Code Letters), which have entered the Postal Facilities of a regulated postal operator which is not the Intended Operator in respect of those Code Letters;
- (q) **“Mispasted Code Letters”** means Code Letters which due to customer error have entered the Postal Facilities of a regulated postal operator which is not the Intended Operator in respect of those Code Letters and which have not been delivered to the relevant addressee;
- (r) **“Postal Common Operational Procedures Code”** means the Code of Practice in section 3 of this Condition;
- (s) **“Postal facilities”** means the physical and human resources deployed by a regulated postal operator (and, where relevant, by its contractors and agents) for the purpose of providing postal services;
- (t) **“Postal Packet”** has the meaning ascribed to it in the Act but

excludes parcels;

- (u) **“Prohibited Code Letters”** means any Postal Packet (including parcels) which contains items and/or material prohibited or restricted by the Scheme;
- (v) **“public holiday”** means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;
- (w) **“Receiving Operator”** means the regulated postal operator whose Postal Facilities the Relevant Code Letters (in respect of which it is not the Intended Operator) have entered;
- (x) **“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;
- (y) **“Relevant Code Letters”** means Miscollected Code Letters or Misdirected Code Letters, as the case may be;
- (z) **“regulatory condition”** means any condition of authorisation set by OFCOM under the Act;
- (aa) **“Royal Mail”** means Royal Mail Group Limited (registered number 4138203);
- (bb) **“Scheme”** means the Successor Postal Services Company Inland Letter Post Scheme 2001 made pursuant to section 89 of the Postal Services Act 2000 (or other comparable scheme made pursuant to that section);
- (cc) **“Sender”** in relation to any letter or other communication, means the person whose communication it is;
- (dd) **“Voluntary Code Letter”** means any Postal Packet (other than a Prohibited Code Letter) which is not a Code Letter for the purposes of paragraph (b) of the definition of Code Letter but which is no larger than 460mm by 610mm by 460mm (or, if a tubular Postal Packet, the length plus twice the diameter does not exceed 1040mm with a maximum length of 900mm), and no heavier than 2kg.

<b>CP 2.1.3</b>	<p>For the purpose of interpreting this CP Condition—</p> <ul style="list-style-type: none"> <li>(a) except in so far as the context otherwise requires, any word or expression shall have the meaning set out in CP 2.1.2 above and otherwise the same meaning as it has been ascribed for the purpose of Part 3 of the Act<sup>2</sup>;</li> <li>(b) headings and titles shall be disregarded;</li> <li>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</li> <li>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</li> <li>(e) references to a <b>day</b> 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 and <u>public holidays</u>.</li> </ul>
-----------------	--

## **2. Obligation to abide by the Postal Common Operational Procedures Code**

<b>CP 2.2.1</b>	Unless <u>OFCOM</u> otherwise consent, each <u>regulated postal operator</u> shall comply with the <u>Postal Common Operational Procedures Code</u> .
<b>CP 2.2.2</b>	<p>Unless <u>OFCOM</u> otherwise consent, a <u>regulated postal operator</u> shall become and remain a party to the <u>Postal Common Operational Procedures Agreement</u> which shall apply insofar as:</p> <ul style="list-style-type: none"> <li>(a) it is consistent with, and deals with matters not provided for in, the terms and conditions of any <u>Access Agreement</u>, <u>Intermediary Agreement</u>, <u>USP Access Agreement</u> or <u>Access Code</u> to which the <u>regulated postal operator</u> is a party; and</li> <li>(b) the <u>regulated postal operator</u> has not established alternative arrangements with other <u>regulated postal operators</u> relating to the treatment of misdirected mail and miscollected mail.</li> </ul>
<b>CP 2.2.3</b>	Unless <u>OFCOM</u> otherwise consent, a <u>regulated postal operator</u> shall at all times refrain from acting in a manner which is inconsistent with the <u>Code Objectives</u> or which is likely to prejudice the effective functioning of the <u>Postal Common Operational Procedures Code</u> ;

<sup>2</sup> A 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.

<p><b>CP 2.2.4</b></p>	<p>If nominated by <u>OFCOM</u> by direction in writing given for the purposes of this Condition generally to the office of Secretary of the <u>Postal Common Operational Procedures Agreement</u>, perform the functions of that office in an efficient, timely, impartial and professional manner, subject to reimbursement by <u>OFCOM</u> of the costs reasonably incurred in the discharge of those functions.</p>
<p><b>CP 2.2.5</b></p>	<p>The <u>Postal Common Operational Procedures Agreement</u> shall be modified in accordance with this paragraph if:</p> <ul style="list-style-type: none"> <li>(a) <u>OFCOM</u> have received a proposal to change the <u>Postal Common Operational Procedures Agreement</u> from a person entitled under its provisions to make such a proposal, and</li> <li>(b) that proposal has been submitted to <u>OFCOM</u> in the manner, and containing the information, provided for in the <u>Postal Common Operational Procedures Agreement</u>, and</li> <li>(c) <u>OFCOM</u>: <ul style="list-style-type: none"> <li>(i) are of the opinion that modification of the <u>Postal Common Operational Procedures Agreement</u> in the manner proposed will enable the <u>Code Objectives</u> better to be fulfilled and that such modification is consistent with its statutory duties,</li> <li>(ii) have given notice of the proposed modification in accordance with CP 2.2.6 and 2.2.7;</li> <li>(iii) have considered any representations made in accordance with that notice and not withdrawn; and</li> <li>(iv) have directed by a direction given for the purpose of this Condition generally that the proposed modification be made.</li> </ul> </li> </ul>
<p><b>CP 2.2.6</b></p>	<p>A notice under CP 2.2.5(c)(ii) shall be in accordance with this paragraph if it states:</p> <ul style="list-style-type: none"> <li>(a) that <u>OFCOM</u> propose to make the modification;</li> <li>(b) the effect of the proposed modification;</li> <li>(c) the reasons for the proposed modification; and</li> <li>(d) the period (of not less than 28 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed modification.</li> </ul>

**CP 2.2.7**

A notice under CP 2.2.5(c)(ii) shall be in accordance with this paragraph if it is given by:

- (a) serving a copy of the notice on each of the parties to the Postal Common Operational Procedures Agreement as at the date of such notice and on the Consumer Advocacy Bodies, and
- (b) publishing the notice in such manner as OFCOM consider appropriate for the purpose of bringing the matters included in the notice to the attention of persons likely to be affected by them.

### **3. The Postal Common Operational Procedures Code**

#### **Introduction**

CP 2.3.1 This is the Code of Practice covering common operational procedures for handling misdirected or miscollected mail and misdirected complaints or other enquiries. Its purpose is to achieve the following objectives in respect of such matters (the “**Code Objectives**”):

- (a) the furtherance of the interests of users of postal services;
- (b) ensuring that Miscollected Code Letters and Misdirected Code Letters are:
  - (i) returned to the Intended Operator; or
  - (ii) if such return is not reasonably practicable, otherwise handled (including, where appropriate, delivered to the intended user)in either case in an efficient, economic and timely manner;
- (c) ensuring complaints or other enquiries (including from customers) in relation to Code Letters made to a regulated postal operator which is not the regulated postal operator to which the complaint or other enquiry should have been made, are handled in an efficient, economic and timely manner; and
- (d) so far as is consistent with sub-paragraphs (a) to (c), the promotion of effective competition between regulated postal operators.

CP 2.3.2 The Code sets out the requirements and procedures to be followed in order to satisfy the Code Objectives.

CP 2.3.3 This Code applies to all regulated postal operators. Compliance is obligatory for all regulated postal operators in accordance with regulatory conditions.

CP 2.3.4 Regulated postal operators will need to enter into contractual arrangements separate to this Code in order to comply with and give effect to the provisions of the Code: for example, day-to-day arrangements for the repatriation of misdirected mail and any charges payable for that service will need to be established. Regulated postal operators are required to be party to a separate "default agreement" – the Postal Common Operational Procedures Agreement – so as to ensure that in the absence of any bespoke negotiated arrangements between regulated postal operators, regulated postal operators will be able to comply with this Code.

CP 2.3.5 This Code shall not be interpreted in any way which is inconsistent with the Code Objectives.

#### **Code Identifier and voluntary application of the Code**

##### *General*

CP 2.3.6 Subject to CP 2.3.7 - CP 2.3.12, each regulated postal operator must take all reasonable steps:

- (a) to ensure that its Code Identifier is clearly and legibly marked in accordance with industry practice on each Code Letter in respect of which it is the Intended Operator;
- (b) not to mark its Code Identifier on any Postal Packet (which for the purposes of CP 2.3.6 - CP 2.3.12 includes parcels) in respect of which it is the Intended Operator which is not a Code Letter.

*The universal service provider*

CP 2.3.7 Royal Mail will be taken to have satisfied its obligations under CP 2.3.6(a) if a Code Letter in respect of which Royal Mail is the Intended Operator bears:

- (a) a Royal Mail postage stamp; or
- (b) a mark or impression which includes the words "Royal Mail" or other reasonably recognisable Royal Mail text or symbol.

CP 2.3.8 In relation to all other Code Letters in respect of which Royal Mail is the Intended Operator which do not meet the requirements of CP 2.3.7, Royal Mail must comply with CP 2.3.6(a).

*Access Parties and Intermediaries*

CP 2.3.9 An Access Party or Intermediary will be taken to have satisfied its obligations under CP 2.3.6(a) if a Code Letter in respect of which the Access Party or Intermediary is the Intended Operator, is marked with that Access Party's or Intermediary's Indicator.

CP 2.3.10 In relation to all other Code Letters in respect of which an Access Party or Intermediary is the Intended Operator which do not meet the requirements of CP 2.3.9, that Access Party or Intermediary must comply with CP 2.3.6(a).

*Voluntary application of the Code*

CP 2.3.11 A regulated postal operator (other than the universal service provider acting in any capacity, and an Access Party and an Intermediary acting in those capacities) may elect to extend the application of the Code to Voluntary Code Letters.

CP 2.3.12 If a regulated postal operator makes an election in accordance with CP 2.3.11, those Voluntary Code Letters in respect of which the election is made:

- (a) must be clearly and legibly marked in accordance with industry practice with the relevant Code Identifier; and
- (b) if so marked, shall be deemed to constitute for all purposes of this Code, Code Letters.

**Treatment of Misdirected Code Letters**

CP 2.3.13 Regulated postal operators must take all reasonable steps to ensure that Misdirected Code Letters are:

- (a) returned to the Intended Operator; or
- (b) if such return is not reasonably practicable, otherwise handled (including, where appropriate, delivered to the intended user)

in either case, in an efficient, economic and timely manner.

CP 2.3.14 Regulated postal operators may:

- (a) charge the relevant Intended Operator for the reasonable costs properly and reasonably incurred in returning or otherwise handling the relevant Misdirected Code Letter in accordance with CP 2.3.13;
- (b) where in accordance with CP 2.3.13 they deliver or return the relevant Misdirected Code Letter to the relevant intended user or Sender, as the case may be, charge the user or Sender for such delivery or return on the same basis that they would be entitled to charge if they were the Intended Operator of the relevant Misdirected Code



Letter.

### **Treatment of Miscollected Code Letters**

CP 2.3.15 Regulated postal operators must take all reasonable steps to ensure that Miscollected Code Letters are returned to the Intended Operator or its customer, in either case, in an efficient, economic and timely manner.

CP 2.3.16 Regulated postal operators may not charge for returning the relevant Miscollected Code Letters in accordance with CP 2.3.15.

### **Customer Service Enquiries**

CP 2.3.17 If a regulated postal operator receives a complaint or other enquiry in relation to a Code Letter that should have been made to another regulated postal operator, the regulated postal operator receiving the complaint or other enquiry shall:

- (a) treat that complaint or other enquiry with the same degree of care and importance that it would if the complaint or other enquiry should have been made to that regulated postal operator;
- (b) explain to the complainant that the complainant should contact the other relevant regulated postal operator; and
- (c) provide to the complainant the contact details of that other relevant regulated postal operator.

CP 2.3.18 If a regulated postal operator receives a complaint or other enquiry where the identity of the regulated postal operator to which that complaint or other enquiry should have been made is not discernable from the relevant Code Letter, the regulated postal operator receiving the complaint or other enquiry is only required to refer the complainant to the Sender of the Code Letter.

CP 2.3.19 Regulated postal operators must take all reasonable steps to ensure that they have sufficient personnel properly trained (and with access to all relevant information) in order to handle complaints or other enquiries in accordance with the other provisions of CP 2.3.17 – CP 2.3.18.

### **Information and Reporting**

CP 2.3.20 Within 3 months of 31 March each year, each regulated postal operator must provide to OFCOM details of:

- (a) the total number of Misdirected Code Letters in respect of which that regulated postal operator was the Receiving Operator during the relevant year ending 31 March; and
- (b) where relevant, the total such number broken down by Intended Operator.

**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.*

<b>Defined term</b>	<b>Section of the Act</b>
<i>OFCOM</i>	<i>90</i>
<i>postal operator</i>	<i>27(3)</i>
<i>postal services</i>	<i>27(1)</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9, paragraph 3</i>
<i>user</i>	<i>65(1)</i>

