



Direction designating  
geographical conditions and other  
circumstances as exceptional for  
the purpose of deliveries

Statement and  
Direction  
Publication date: 23 February 2012

Direction designating geographical conditions and other circumstances as exceptional for the purpose of deliveries

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## Section 1

# Ofcom's Universal Exception Policy

## Introduction

- 1.1 The policy statement in Section 3 sets out the circumstances in which Ofcom exempts Royal Mail from its requirement under initial Condition DUSP 1 (or under any regulatory condition that replaces initial Condition DUSP 1 which has substantially the same effect as that initial condition) to deliver letters to every home or premises every working day.
- 1.2 This statement also lists the alternative identifiable points for the delivery of letters approved by Ofcom and provides circumstances where universal service deliveries may be temporarily suspended.
- 1.3 A key aim of this policy is to ensure that the needs of people who are disabled, chronically sick, or of pensionable age are properly addressed, where the universal service cannot be provided, for either health and safety or difficulty of access reasons.
- 1.4 The policy and Direction were last modified on 1 October 2008. The modifications made on that date reflected the fact that the Consumers, Estate Agents and Redress Act ("the CEAR Act") had been given Royal Assent in July 2007 and changed the framework for consumer advocacy. The CEAR Act abolished the Consumer Council for Postal Services ("Postwatch") and established a new consumer advocacy body (the National Consumer Council (known as "Consumer Focus")).
- 1.5 The duration of the Direction made on 1 October 2008 referred to above was extended until 30 June 2011. No other changes were made to the Direction.
- 1.6 Following a consultation, issued on 16 November 2011, Ofcom has decided to extend the Direction until 31 December 2013. However, this does not preclude the policy being reviewed again during 2013 and, where necessary, changes made to ensure consistency with the outcomes of the review of the reasonable needs of users due to conclude in 2013.
- 1.7 At this time, it is necessary to modify the current policy and Direction to reflect the coming into force of the Postal Services Act 2011. Under the Postal Services Act 2011, regulatory responsibility for postal services transferred from Postcomm to Ofcom. In addition, the existing licensing regime has been replaced with a general authorisation regime. As a result, the existing conditions of Royal Mail's licence have been transposed into "initial conditions" under the general authorisation regime. These initial conditions came into effect on 1 October 2011 and have substantially the same effect as the conditions in the old licences. On 13 December 2011, Ofcom published a consultation setting out a review of the initial conditions and proposing a number of wide-ranging changes to those regulatory conditions to ensure that they remain fit for purpose and are consistent with our wider objectives<sup>1</sup>.
- 1.8 Under the Postal Services Act 2011, while the circumstances in which Royal Mail may be exempted from its requirement to deliver letters to every home or premises every working day have not changed, the legal basis for that exemption is now set

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<sup>1</sup> Ofcom: Review of Regulatory Conditions, Postal Regulation, dated 13 December 2011

out in section 33(2) of the Postal Services Act 2011 and in Condition DUSP 1 of the initial conditions<sup>2</sup>.

- 1.9 Therefore, the only modifications that we are making to the policy and Direction are to reflect the fact that Ofcom now has regulatory responsibility for postal services instead of Postcomm and to replace references to the Postal Services Act 2000 and Condition 2 in Part 2 of Schedule 2 of Royal Mail's licence with references to the Postal Services Act 2011 and Condition DUSP 1 (and any regulatory condition that replaces initial Condition DUSP 1 which has substantially the same effect as that initial condition).
- 1.10 We received four responses to our consultation. None of the respondents disagreed with the modifications that we proposed to make. The respondents did, however, raise some additional issues with the Direction. For reasons explained below in Section 2, we do not consider that it is necessary to make any further changes to the policy and Direction in response to those responses and have decided to adopt the Direction as set out in the consultation.

## Purpose

- 1.11 The purpose of this universal service exceptions policy is to provide a clear and robust framework to help achieve consistency of treatment for all Royal Mail's customers, and to provide both them and Royal Mail with clarity on when there may be an exception. To achieve this, Ofcom's policy contains the following key elements:
- clear exception categories;
  - clear criteria to facilitate consistent application;
  - an annual reporting requirement to Ofcom and Consumer Focus, on exception and temporary suspension cases;
  - a review process; and
  - a complaint and appeals process for dissatisfied customers.
- 1.12 The Direction giving effect to this policy extends the Direction made on 1 October 2008.

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<sup>2</sup> In the Review of Regulatory Conditions consultation, Ofcom proposes modifications to Condition DUSP 1. However, the circumstances in which Royal Mail may be exempted from its requirement to deliver letters to every home or premises every working day remain the same.

## Section 2

# Responses to the consultation

2.1 Ofcom has received three formal responses to its consultation, from:

- Royal Mail
- Consumer Focus
- One private individual (confidential)

In addition, another postal operator has informally submitted comments on the proposed Direction which we have also taken into account.

2.2 We have considered each response and have concluded that it is not necessary to make any further changes in light of these responses. The reasons for reaching this conclusion are set out below.

2.3 *Response from Royal Mail:*

Royal Mail is of the opinion that both the Delivery Exceptions Policy and Direction and the Collection Exceptions Policy and Direction should formally be reassessed at the same time as the review of the Universal Service, to ensure that their outputs can be aligned. It feels that it would be more appropriate if the proposed extension continued until the first of April 2013 rather than the 31st of December 2013. This would ensure that any decisions which are taken as a result of the Ofcom review of the universal service - target date for completion April 2013 - which impact on the Universal Delivery Service Policy and Direction can be implemented swiftly. A copy of Royal Mail's response is published separately.

*Our response to Royal Mail:*

We note Royal Mail's opinion that we should consider reassessing the Direction at the same time as the review of the universal service and extend the Direction only until the date of the review. However, extending the Direction to 31 December 2013 is in line with the extension that was made to the Collections Exception Direction<sup>3</sup>. Furthermore, the extension does not preclude considering either Direction at an earlier stage and re-consulting if necessary, for example, to make changes as a result of the outcome of the review of the reasonable needs of users. We stated in our consultation letter of 16 November 2011 that "*the extension does not prevent the issuing of a new policy and direction before 31 December 2013 if circumstances require that a review be undertaken. We may consider reviewing the policy at the same time as the proposed universal service postal order if we think it may be appropriate to do so*".

Given that at this stage we do not know if the review of the reasonable needs of users will result in modifications to the proposed universal service postal order and, if so, whether those modifications will result in changes needing to be made to the Delivery Exceptions Direction, we prefer to retain the 31 December 2013 expiry date. This will avoid the risk that the Direction expires prematurely in circumstances where

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<sup>3</sup> Extension of Direction designating geographical conditions and other circumstances as exceptional for the purpose of collections – 7 December 2010

no changes are necessary as a result of the review whilst at the same time enables us to preserve the flexibility to bring forward the date of the expiry of the Direction if changes are necessary.

#### 2.4 *Response from Consumer Focus:*

Consumer Focus supports the extension but queried the change in the period of time for a decision to be given by the reviewer. The reviewer at stage 2 of the appeal process now has two months to provide a decision, which is an extension of the original one month period provided for in 2007. Consumer Focus believes that one month is a sufficient time period for Royal Mail to undertake its review at each stage. Originally, Postwatch had two months to review the case at what was Stage 3 of the process because it had to obtain copies of all correspondence from both the consumer and Royal Mail before reviewing the case for the first time. Consumer Focus's response is published separately.

##### *Our response to Consumer Focus:*

Consumer Focus is correct to point out that the Direction originally included a one-month period for Stage 2 of the appeals process. However, the extension of the one-month period at Stage 2 to a two-month period occurred when changes were made to the Direction in October 2008 as a result of the Consumers, Estate Agents and Redress Act 2007 coming into force which resulted in the abolition of Postwatch. At that time, the new National Consumer Council (i.e. "Consumer Focus") which replaced Postwatch was consulted and it was decided that Consumer Focus would not hear exception appeals. Consumer Focus considered that consumer interests would be adequately protected by the appeal mechanism to Postcomm following the review by Royal Mail without there needing to be an additional review by Consumer Focus.

As the Postwatch appeal stage was to be removed, Postcomm agreed to a request from Royal Mail for an extra month for Stage 2 of the appeals process. This was to allow Royal Mail time to consider complex cases more fully, including detailed Health & Safety assessments and discussions with the customer, to increase the chances of resolving the appeal at this stage. The removal of the Postwatch stage of the appeals process took three months off the overall appeals process. Even with the additional month for Stage 2 of the process, the overall appeals process was still shortened by two months. In fact, Postcomm has received very few Stage 3 appeals following the changes made in 2008 and Royal Mail has managed to resolve a number of appeals at Stage 2.

We are considering undertaking a fuller review of the current process during 2012 and the time periods that apply under the appeal process will be considered as part of that process.

#### 2.5 *Response from private individual*

One respondent, a private individual, raised concerns about the scope and duration of some of the exceptions that have been granted, citing the example of deliveries having been suspended in an entire street for an extended period of time as a result of a dangerous dog in one property.

##### *Our response:*

There is a need for flexibility in the policy to allow consideration on a case by case basis, as different circumstances arise in different cases. Thus, while we do not know the facts of the particular case to which the respondent referred, we note that there may be circumstances in which it may be appropriate to suspend deliveries to an entire street as a result of a dangerous dog in one property, for example, where the dangerous dog is unrestrained and allowed by its owner out in the street.

Furthermore, if customers object to the scope or duration of an exception, they are entitled to bring a formal appeal of Royal Mail's decision to suspend deliveries under the appeal process set out in the Direction. Under that appeal process, a customer may refer a decision to Ofcom at the final stage for a review by Ofcom as to whether Royal Mail is interpreting the policy inappropriately.

Finally, Ofcom has not received evidence to demonstrate that the process does not work effectively given the right of appeal.

## 2.6 *Response from operator:*

UK Mail raised the issue of whether the list of excepted addressees should be published. It suggested that such a list should be published because it would provide benefits to mail users and would be an enabler of final delivery competition. It has cited the following examples of postal users and operators who would benefit from such information:

- purchasers of a property for whom it would be important to know that Royal Mail did not deliver to that property;
- companies sending out statements or other formal communications;
- direct marketing companies which might wish to establish an 'exemptions' file in order to avoid the cost of sending an item to an address where it could not be delivered; and
- other final delivery operators which would value knowing what delivery exemptions had been approved by the regulator.

### *Our response:*

As we receive this information as a result of a regulatory requirement, there are limits on our ability to disclose such information. Section 56 of the Postal Services Act 2011 – "General restriction on disclosure of information" imposes the following restriction on us:

*(1) Information that -*

*(a) is obtained as a result of this Part, and*

*(b) relates to the affairs of an individual or to a particular business,*

*must not be disclosed during the lifetime of the individual or so long as the business is carried on, except as provided by this section.*

Subsection (2) provides a number of circumstances in which Ofcom is permitted to disclose such information. Only two of those circumstances are potentially relevant here.



The first circumstance is that disclosure is permitted under subsection (2)(a) with the consent of the individual or the person for the time being carrying on the business. Since Ofcom only receives a list of excepted addresses (without the names of the addressees), it is not in a position to obtain consent of those individuals or persons affected by the exception. In any event, even if we had the names of the addressees, we would typically only seek consent for disclosure if we considered that publication was desirable (on which, see further below).

The second circumstance is that disclosure is permitted under subsection (2)(b) for the purpose of facilitating the carrying out by Ofcom of any of their functions. In this context, UK Mail argues that Ofcom's duty to further the interests of mail users, including through efficient competition, is relevant and could be grounds for disclosure.

Ofcom does have a duty under section 3 of the Communications Act 2003 to further the interests of consumers in relevant markets, where appropriate by promoting competition. However, while we recognise that the disclosure of the excepted list may be of interest to the various individuals and businesses identified by UK Mail, we do not consider that disclosure would sufficiently further the interests of consumers or promote competition to be justified. First, the number of addresses on the excepted list represents a very small proportion of total addresses in the UK<sup>4</sup>. Secondly, the fact that delivery to an address has been suspended does not mean that the persons or businesses located at that address cannot receive post as Royal Mail will seek to agree alternative delivery arrangements with those customers affected by the suspension. Finally, the circumstances in which disclosure may be permitted are an exception to the general prohibition on disclosure set out in subsection (1) and as such must be construed narrowly.

It should be noted that the information contained in the excepted list is likely to contain personal information. Therefore, even if we decided that its disclosure was justified under subsection (2)(b), that disclosure would raise issues under the Data Protection Act 1998.

Therefore, in light of the above, we do not consider that it is appropriate for Ofcom to disclose the information in the excepted list.

In this context, it should be noted that Royal Mail does publish, on its website, the number of delivery points affected in each exception category by postcode area.

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<sup>4</sup> Royal Mail delivers to approximately 26 million addresses. In 2011 there were 3013 exceptions (including voluntary exceptions). 2176 of these were due to difficulty of access, 395 to long term health and safety and 442 to short term health and safety.

### Section 3

## What are the categories of exception and of temporary suspension?

3.1 The Direction specifies two categories for long term exceptions to the universal service daily delivery obligation:

- health and safety, and
- difficulty of access

and three categories for temporary suspension:

- health and safety;
- difficulty of access; and
- customer request

3.2 Table 1 gives further details of the long term exception and temporary suspension categories and some examples of the geographical or other exceptional circumstances where they might apply.

**Table 1: EXCEPTION CATEGORIES AND EXAMPLES**

<b>NATURE OF EXCEPTION</b>	<b>Long term exception examples</b>	<b>Temporary suspension examples</b>
<b>HEALTH AND SAFETY</b>	Customer fails to provide access suitable for Royal Mail staff and vehicles, causing health and safety risk. Difficult or dangerous terrain e.g. paths crossing airport runways or railway tracks; paths on mountain sides or subject to coastal erosion.	Dangerous dogs. Crime and/or threatening behaviour. Other temporary difficulties not caused by emergencies, e.g. brambles seriously overgrowing footpath to premises; overflowing cesspits, dangerously rubbish- littered site.
<b>DIFFICULTY OF ACCESS</b>	Some island addresses or parts of the mainland, only accessible by limited ferry or air services or by boat. Premises with access via private land owned by third party unwilling to permit access. Premises where access involves more than a 15 minute round trip on a private access road or track in poor condition, on foot or by vehicle.	Customer deliberately blocks access e.g. by locking gate. Customer does not provide a secure delivery point e.g. no letter box in front door and no approved alternative delivery point offered.

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<b>CUSTOMER REQUEST</b>	Not applicable	Customer has requested alternative delivery arrangements e.g. deliveries on specified days or for a specified period only, or deliveries to an alternative address
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Note: The examples in this table are non-exhaustive and are provided merely as an indication of the types of circumstance likely to lead to long term exception from, or temporary suspension of, the universal service obligation.

**Section 4**

# How will the exception and temporary suspension process work?

**(a) HEALTH AND SAFETY CATEGORY**

- 4.1 Royal Mail is required by law to provide a safe working environment for its employees. Royal Mail’s policy for managing risk assessment, whereby health and safety risks to its employees are identified, assessed and successfully controlled, is set out in the internal Royal Mail Risk Assessment Manual. Risk assessments for long term universal service health and safety exceptions and temporary exceptions are required to take place at least every 12 months. These should be undertaken by Royal Mail staff who are competent in dealing with health and safety matters.
- 4.2 Ofcom’s policy provides for a long term exception or temporary suspension of a customer’s home or premises to be made from the universal postal service daily delivery obligation on health and safety grounds in cases where delivery to an address would put the health and safety of Royal Mail staff at risk.

**Table 2: HEALTH AND SAFETY EXCEPTIONS AND SUSPENSIONS**

Nature of exception	Long term exception examples	Temporary suspension examples
<b>Health and safety</b>	Customer fails to provide access suitable for Royal Mail staff and vehicles, causing health and safety risk. Difficult or dangerous terrain e.g. paths crossing airport runways or railway tracks; paths on mountain sides or subject to coastal erosion.	Dangerous dogs. Crime and/or threatening behaviour. Other temporary difficulties not caused by emergencies, e.g. brambles seriously overgrowing footpath to premises; overflowing cesspits, dangerously rubbish littered site.

**(i) Long term exceptions on health and safety grounds**

- 4.3 Long term exceptions under this category will generally relate to relatively permanent physical access conditions at the premises, and will arise from the need to cross difficult or dangerous terrain to reach the premises, or from the rough condition of the track leading to the premises. It is the responsibility of the customer (or sometimes of a third party) – and not of Royal Mail – to keep access to their property in reasonable condition. In some cases involving rough tracks it may be the case that a daily journey by a postal delivery vehicle would increase both health risks to staff (e.g. of back injury) and vehicle safety risks to an unacceptable level, whereas occasional access to the premises by delivery vehicles making other types of delivery may lead to acceptable levels of health and safety risks.

- 4.4 Where Royal Mail identifies any of these types of problem, Ofcom's designation provides for long term exceptions from the universal service daily delivery obligation on health and safety grounds where:
- a formal health and safety risk assessment has been undertaken by competent staff;
  - there is no practicable alternative route to the property;
  - the hazard is either the responsibility of the occupier or of a third party and they do not rectify the problem;
  - any decision not to provide the universal postal service (of daily delivery to the home or premises) is only made where the assessment shows there is no means which is both safe and reasonable of overcoming the hazard;
  - the decision has been communicated in writing to the customer (including an explanation of the findings of the most recent risk assessment and a summary of the remedial actions which would be required before daily deliveries can be reinstated) and reasonable alternative delivery arrangements have been offered and subsequently agreed with the customer or are being/ have been determined under the appeals process;
  - the customer is informed of the appeal mechanism and it has been applied where appropriate; and
  - the decision is subject to an annual review (or an intermediate review at a customer's reasonable request).
- 4.5 Royal Mail is required by the direction to provide Consumer Focus and Ofcom on an annual basis with a list of addresses that are subject to the designation for long term exceptions from the universal service daily delivery obligation. Where the annual health and safety review shows that the health and safety hazard ceases to apply, the address will again be subject to a daily delivery obligation. Where the review shows a continuing risk, the exception will continue. However, the occupier can ask Royal Mail to review the situation at any time if the circumstances giving rise to the exception have materially changed. If in such circumstances Royal Mail declines to review the matter, Ofcom may ask Royal Mail if it is reasonable to do so, to reconsider its conclusion within a reasonable period.
- 4.6 In providing this annual list of addresses to Consumer Focus and Ofcom, Royal Mail should include the following information:
- customer's address and/or postcode area details;
  - start date of exception;
  - reasons for exception;
  - outcome of health and safety review;
  - details and reasons for proposed period of continued exception; and
  - frequency of delivery and alternative arrangement.

**(ii) Temporary suspension on health and safety grounds**

- 4.7 Temporary suspension of the universal postal service daily delivery obligation on health and safety grounds may be appropriate where the difficulties are short term and specific to the occupier of the home or premises, or where there are other short term access difficulties which are not classifiable as an emergency.
- 4.8 Temporary suspension will apply where, for example, the customer keeps dangerous dogs or where Royal Mail staff have been subjected to threatening behaviour from customers or to attacks in crime prone areas.
- 4.9 Cases raising safety concerns due to floods, snowfall, fires, security alerts, disease outbreaks and other causes that cannot be foreseen and are beyond the control of both the customer and Royal Mail **do not** belong in this category because Condition DUSP 1.5 of the initial conditions does not require a service to continue without interruption, suspension or restriction in cases of an emergency.
- 4.10 In addition, other cases where there may be access problems on a regular basis resulting from recurring and foreseeable natural events, such as annual snowfall, or seasonal flooding, should not be classified as a temporary suspension. However, Ofcom **recommends** that Royal Mail should in any event use reasonable endeavours to identify alternative delivery arrangements to be adopted whenever such problems arise, so that both customers and delivery offices are certain of the arrangements in these circumstances.
- 4.11 Ofcom designates that suspensions of the universal postal service daily delivery obligation may be made on a temporary basis on health and safety grounds if:
- a health and safety risk assessment is undertaken by the relevant delivery office manager as soon as practicable after the situation is identified;
  - the decision to temporarily suspend universal postal service daily delivery is communicated in writing to the occupant(s) of the home or premises (where possible – otherwise, e.g. where a dangerous dog prevents delivery, efforts should be made to contact the occupant by other means) including an explanation of the remedial actions required before daily deliveries can be reinstated and details of alternative delivery arrangements offered<sup>5</sup>;
  - the occupants of premises have been informed of their right to appeal internally within Royal Mail, and then to Ofcom if they wish to challenge any decision relating to non-provision of the universal postal service; and
  - Royal Mail reviews these cases annually, where appropriate under health and safety legislation, and informs customers of its decisions.
- 4.12 Royal Mail is also required:
- to notify Ofcom of cases involving temporary suspension of the universal postal service daily delivery obligation for health and safety reasons, where the suspension has lasted more than one working day over a wider area i.e. where the suspension affects more than one address or small group of addresses; and
  - to provide Ofcom with details of the date on which Royal Mail intends or expects to resume the universal postal service to these wider areas.

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<sup>5</sup> The reinstatement of delivery would be subject to the access passing a further risk assessment once the remedial actions have been undertaken.

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- 4.13 In addition, Royal Mail is required to notify Consumer Focus and Ofcom annually of addresses temporarily suspended from universal service daily deliveries for 12 months or more. Where the temporary suspension needs to be continued beyond a period of a year, it should be included in the annual report to Consumer Focus and Ofcom. The customer will be advised of the position and have the opportunity to appeal against it.
- 4.14 In providing this annual list of addresses to Consumer Focus and Ofcom, Royal Mail should include the following information:
- customers' addresses and/or postcode area details;
  - start date of temporary suspension;
  - reasons for temporary suspension;
  - outcome of health and safety review;
  - details and reasons for proposed period of continued temporary suspension; and
  - frequency of delivery and alternative arrangement.

### Arrangements for elderly and disabled residents

- 4.15 As now, Royal Mail should continue to make every reasonable effort to make delivery arrangements which cause these residents the minimum of inconvenience or difficulty. For example, where deliveries to the door are excepted or temporarily suspended on health and safety grounds because daily delivery would pose health and safety risks to Royal Mail staff, it may sometimes be possible for Royal Mail to agree to make less frequent deliveries to the door. However, Ofcom recognises that Royal Mail should not deliver when delivery poses unacceptable health and safety risks to its staff.

### (b) DIFFICULTY OF ACCESS CATEGORY

**Table 3: DIFFICULTY OF ACCESS EXCEPTIONS AND SUSPENSIONS**

Nature of exception	Long term exception examples	Temporary suspension examples
<b>Difficulty of access</b>	Some island addresses or parts of the mainland, only accessible by limited ferry or air services or by boat. Premises with access via private land owned by third party unwilling to permit access. Premises where access involves more than a 15min round trip on a private access road or track in poor condition, on foot or by vehicle.	Customer deliberately blocks access e.g. by locking gate. Customer does not provide a secure delivery point e.g. no letter box in front door and no approved alternative delivery point offered.

- 4.16 As can be seen from the examples in Table 3, difficulty of access in this context does not include addresses where there are health and safety issues. Access difficulties in these cases will arise in most cases as a result of the remote location of premises in some rural areas, away from the public road, or be due to the limited frequency of

local ferry or air services to islands. Currently, addresses located on islands or parts of the mainland only accessible by plane and boat only receive deliveries on the days the scheduled airline or ferry service runs or through arrangements made between Royal Mail and contractors (normally local boat hire companies or the customers themselves). Some addresses in remote rural areas will be reliant on deliveries being made using off road vehicles, the local Postbus service, or alternative delivery arrangements such as roadside boxes.

## **(i) Long term exceptions on difficulty of access grounds**

### Island addresses with scheduled transport services

4.17 Addresses on islands with a scheduled air and/or ferry service normally receive a postal delivery service on the days the plane or ferry operates. Ofcom thinks that it would be unreasonable to require Royal Mail to provide a duplicate infrastructure for conveying letters on other days. Its designation therefore provides that:

- island addresses with a limited or no scheduled air or ferry service should continue to be classed as exceptions
- Royal Mail should provide deliveries to addresses on islands on the days when an operationally compatible scheduled air or ferry service is available, provided that this is not prevented by circumstances beyond Royal Mail's control. In most cases delivery will be possible at least three days a week.

4.18 Where a normal ferry service is not available, for example, during the winter months, Ofcom designates that, providing it is safe to do so, Royal Mail should provide:

- a postal delivery service not less than once a week using local agents.

4.19 Alternative delivery arrangements, such as collection at a delivery office where that is feasible, should be agreed with customers where possible, to cover the days or any specific period when Royal Mail does not provide a delivery to premises.

### Islands or other locations accessible only by boat but with no ferry services

4.20 For islands or other locations accessible only by boat, which are not currently served by local ferry services, Ofcom designates that Royal Mail should, where practicable:

- provide a postal delivery service to the local inhabitants not less than once a week using local agents, make their mail available free of charge at the local delivery office or Post Office on the other days and, as part of its annual review, exercise its discretion to consider the appropriate delivery frequency to the address(es); and
- provide a similar postal delivery service not less than once a week to premises in currently uninhabited locations which become inhabited in the future; and

### Remote addresses

4.21 Some addresses are significantly more difficult to reach than others. For addresses where delivery is difficult because of poor access conditions along a private road or



track, Ofcom does not expect Royal Mail to spend unreasonable amounts of time travelling long distances to make a daily delivery. Ofcom believes it is reasonable for Royal Mail to operate to a round trip limit which is set out below in paragraph 3.23 on the time Royal Mail is obliged to spend on private roads and tracks which are kept in poor condition by customers or third parties, but where health and safety is not considered to be at risk.

4.22 Royal Mail should publish (in the relevant sections of its website and customer literature) a general overview of the types of issues that may result in the condition of access routes being regarded as poor.

4.23 Ofcom designates that there should be:

- **no limit** on the additional road distance travelled by a postal delivery vehicle to reach an address, over
  - a public road, or
  - a private road to the address, maintained in adequate condition
- **a round trip limit of 15 minutes** on the additional time Royal Mail has to spend delivering on foot, or by the vehicle used for the delivery route, along private roads or tracks that are also public rights of way or along private roads or tracks that are not public rights of way, where access conditions are poor (but not so poor as to except the address on health and safety grounds).

4.24 In summary, Ofcom designates that long term exceptions from the universal postal service daily delivery obligation should be made on difficulty of access grounds if:

- daily access to homes or premises located on islands or some parts of the mainland only accessible by boat, is impracticable; or
- access via premises owned by a third party is not possible; or
- access to homes or premises down private roads or tracks (whether or not the subject of public rights of way) in poor condition will take longer than 15 minutes for the round trip on foot or by vehicle; and
- the decision has been communicated in writing to the customer (including an explanation of the reason(s) why an access route is considered to be in poor condition and what needs to be done to improve it in order for daily deliveries to be reinstated) and reasonable alternative delivery arrangements have been offered to the customer;
- the decision is subject to review at the customer's request; and
- the customer has been informed of the customer appeal mechanism and it has been applied where appropriate.

4.25 In addition, Royal Mail should provide Consumer Focus and Ofcom annually with a list of addresses that have been designated long term exceptions from the universal service daily delivery obligation. Where the long term exception needs to be continued for a further period as identified in the annual review, it will be reported to Consumer Focus and to Ofcom. An occupier of premises which is excepted from daily deliveries because of difficulty of access to it can ask Royal Mail to review the exception, if he thinks that the circumstances have materially changed (for example if

access via a third party's premises becomes possible or because the access condition has improved). Where Royal Mail declines to review the matter, Ofcom may nevertheless require Royal Mail to reconsider its conclusion.

4.26 In providing this annual list of addresses to Consumer Focus and Ofcom, Royal Mail should include the following information:

- customer's address and/or postcode area details
- start date of exception
- reasons for exception
- outcome of annual review, and
- details and reasons for proposed period of continued exception
- frequency of delivery and alternative arrangement.

## **(ii) Temporary suspension on difficulty of access grounds**

4.27 Temporary access problems may occur where access to a customer's home or premises has been blocked by the occupier, or where the occupier has made it more difficult or impossible for Royal Mail to reach a delivery point at the home or premises. Examples would be where the customer has locked a gate, blocking entrance to the premises, or where the customer has not provided a secure delivery point e.g. where there is no letter box and no other delivery point has been provided.

4.28 Royal Mail should not be expected to pay to access premises in order to deliver mail. If access is not granted, then the premises concerned will be subject to a temporary suspension on difficulty of access grounds.

4.29 Ofcom designates that temporary suspension of the universal postal service daily delivery obligation on difficulty of access grounds may be made if the occupier or a third party e.g. a neighbour or landlord, has made it more difficult or impossible for Royal Mail to deliver letters to the premises and so long as:

- Royal Mail informs the occupant(s) of the home or premises of its decision to temporarily suspend daily deliveries to the home or premises and offers alternative delivery arrangements;
- the occupants of premises have been informed of the process for their right to appeal internally within Royal Mail, and then to Ofcom if they wish to challenge any decision relating to non-provision of the universal postal service; and
- Royal Mail reviews these cases at the reasonable request of the current or new occupiers.

## **Arrangements for elderly and disabled residents**

4.30 As with the health and safety exception category, Royal Mail should continue to make every reasonable effort to reach an arrangement which causes these residents the minimum of inconvenience or difficulty. For example, where deliveries are excepted or temporarily suspended on difficulty of access grounds it may sometimes be possible for Royal Mail to effect deliveries to the customer through delivery to a neighbour.

**(c) CUSTOMER REQUEST CATEGORY**

4.31 Ofcom believes there will not be any need for long term exceptions under this category.

**i) Temporary suspension on customer request grounds**

4.32 There will always be circumstances where the customer requests to forego a daily delivery to their home or premises. Temporary suspension of the universal service daily deliveries may be appropriate where the customer expresses a personal preference not to have them. For example, the customer may ask Royal Mail not to deliver on particular days of the week or for a specific period of time because they wish to preserve their privacy, or are a business which only operates on certain days of the week, or because they use the address as a holiday home and do not want deliveries in the winter months. In other words, the reasons for non-provision of the delivery services will be specific to the current occupier and not to problems stemming from access conditions at the premises. Royal Mail should reinstate daily deliveries where requested by new or existing occupiers. The appeals process can be initiated if Royal Mail does not reinstate daily deliveries on the request of new or existing occupiers. The table below provides examples where a temporary suspension under this category may be applicable.

**Table 4: TEMPORARY SUSPENSION AT CUSTOMER’S REQUEST**

Nature of exception	Long term exception examples	Temporary suspension examples
Customer request	Not applicable	Customer has requested alternative delivery arrangements e.g. deliveries on specified days or for specified period only, or deliveries to an alternative address.

4.33 Where a customer does not require a full delivery service, Ofcom designates that temporary suspension of the universal postal service daily delivery obligation may be made on customer request grounds if:

- the customer has requested Royal Mail not to make daily deliveries;
- the customer and Royal Mail have then agreed suitable alternative delivery arrangements;
- the decision is subject to a review at the request of the current or a new occupier;
- the current occupants are informed of the customer appeal mechanism and this is applied where appropriate.

- 4.34 Where the alternative arrangement involves a chargeable product or service, e.g. Keepsafe or redirection, the customer will be required to pay the fee and adhere to the terms and conditions of the product or service.

#### (d) DESIGNATION OF ALTERNATIVE DELIVERY POINTS

##### i) Generic approval of identifiable alternative delivery points

- 4.35 Under initial condition DUSP 1.4, Ofcom may approve identifiable points for the delivery of mail other than individual homes or premises. In delivering to such points, Royal Mail would be meeting its universal service obligation to deliver to the addresses concerned.
- 4.36 Ofcom has concluded that certain alternative delivery points may be approved on a generic basis, including customer provided alternative delivery points and arrangements for premises that are not permanently occupied. Table 5 sets out the alternative delivery points that Ofcom has approved generically, with examples of them.
- 4.37 In relation to multi-occupied premises that provide a central point to which mail should be delivered, Ofcom has concluded that Royal Mail should only be required to deliver mail to that central point at the postal address, even if customers may consider that their home or premises are within that postal address. Ofcom therefore designates the central point in such premises as an alternative delivery point for all the residents or businesses located at that postal address.
- 4.38 In relation to multi-occupied premises or sites where a site manager or owner has requested delivery to individual units, Royal Mail will apply a test to assess how deliveries should be made. Royal Mail should publish (in the relevant sections of its website and customer literature) a summary of the criteria it uses to determine this.

**Table 5: ALTERNATIVE DELIVERY POINTS**

Approved alternative delivery points because of:	Examples (Note: This list is non-exhaustive)
Customer-provided identifiable point for delivery or Impermanent or not permanently occupied address or Result of exception process (either by request, agreement or determination)	Roadside box A customer nominated alternative address Retention and collection facility at a post office or other site Private (numbered) PO Box at a post office or other site, paid for by the customer Poste Restante Site office in a caravan park Allocated letter box or concierge at block of flats Mail room, reception desk or porter's lodge at office building, traditional halls of residence, hostel, nursing home etc.

- 4.39 Where a delivery point is provided by the customer, it must be clearly identifiable as being the point to which mail to a specific address should be delivered.

4.40 To be an approved alternative delivery point:

- it must be clearly identifiable as being the point to which mail for a specific address must be delivered e.g. a box at the entrance to a block of flats must have the number of the flat to which the mail is addressed clearly marked on it;
- the point must be a suitable and reasonably secure receptacle for mail; and
- access conditions must be safe for Royal Mail to make the delivery.

**ii) Cost of provision of alternative delivery point**

4.41 The cost of providing any alternative delivery point will lie with the person who makes the request or seeks a determination for it. Thus where addressees would prefer to have mail delivered somewhere other than to their home or premises, they should meet any additional cost this would incur, (e.g. the provision of a roadside box, a redirection service or a PO box). On the other hand, where Royal Mail starts up any of the processes outlined in this policy statement so that it does not need to deliver to a home or premises, it should meet the cost of any agreed or determined alternative delivery point except where, because of factors within the control of the occupier or landlord, it is not possible for Royal Mail to make a daily delivery to the home or premises. For example, if Royal Mail cannot access a property because access is prevented by a dangerous dog or a locked gate, Royal Mail would be justified in only offering delivery to a customer-provided box or some other alternative it is prepared to offer (e.g. delivery to a neighbour, or collection from the local post office).

4.42 Any attempts by Royal Mail to avoid costs which properly it should meet will be subject to the appeal process where an exception address is in dispute and determined in that forum.

4.43 In summary, Ofcom designates approved alternative delivery points, allowing Royal Mail to fulfil its universal service obligation for the addresses concerned, for cases (as in Table 5) where:

- the customer has provided an identifiable alternative point for delivery; or
- the delivery point is an impermanent or not permanently occupied address; or
- insecure delivery points are provided so that delivery cannot be made securely; or where,
- as a result of the process associated with categorising an address as an exception (under the health and safety or difficulty of access categories) the use of an alternative delivery point is agreed or required.

4.44 In deciding what is reasonable Ofcom will presume that:

- customers should meet the cost of an alternative delivery point if that delivery point is used because of their personal choice or because of factors within their control;
- Royal Mail should meet the cost of any alternative delivery point agreed under an exception process instigated by Royal Mail itself, except where, because of factors within the control of the occupier or landlord, it is not possible for Royal Mail to deliver to the home or premises.

## (e) ANNUAL REPORTING REQUIREMENTS

- 4.45 As indicated under the health and safety and difficulty of access exception categories, Ofcom requires Royal Mail to report annually on cases that have been **excepted on a long term basis** from the universal postal service daily delivery obligation. The reporting process involves Royal Mail providing Consumer Focus and Ofcom with an updated list once a year of these addresses, together with details of the reasons for exceptions. As well as long term exceptions, this report should also contain details of addresses that have been **temporarily suspended** from the universal postal service daily delivery obligation on health and safety grounds for a period of 12 months or more, to enable review to take place. Royal Mail should submit its report no later than 31 October every year.
- 4.46 Royal Mail should publish an annual overview of the number of addresses excepted from a universal delivery service on its own website. It should include:
- a year on year comparison of the number of addresses excepted under the health and safety and difficulty of access categories;
  - the number of excepted delivery points under the health and safety and difficulty of access categories by postcode area; and
  - the alternative delivery arrangement categories for the delivery points excepted for health and safety and difficulty of access reasons.

## (f) OFCOM'S PROCESS FOR DETERMINING APPEALS ON UNIVERSAL SERVICE OBLIGATION EXCEPTIONS

- 4.47 A very important condition of exemption under each of the categories listed in **Table 1** of this statement is that Royal Mail must inform each affected customer of the existence of an appeals process, allowing them to appeal against non-provision of the full universal service of a delivery to the customer's home or premises every working day. In addition, it is essential that Royal Mail addresses the needs of people who are disabled, chronically sick, or of pensionable age, in relation to provision of the universal postal service.
- 4.48 Where a customer's address has been excepted from the universal service obligation by Royal Mail, or it is proposed that it should be, and the customer does not accept the proposed delivery arrangements, the customer may appeal against that decision first to a senior manager within Royal Mail, and then, if the case remains unresolved, to Ofcom for final determination.
- 4.49 On receipt of an appeal, Ofcom would first ensure that Royal Mail's processes for appeal have been correctly followed and the relevant criteria properly applied for assessing the exception category. After that initial judgement, Ofcom would apply its discretion to see if the application of the criteria outlined in this decision document would resolve the matter. If the matter remains unclear, it is proposed that Ofcom would follow the approach outlined below.

- 4.50 Appeals against exception decisions made by Royal Mail need to be brought within a reasonable time. Any user wishing to use the appeals process against Royal Mail's decision must commence proceedings:
- within 3 months of being advised by Royal Mail of its conclusion that an address falls into an exception category. A Royal Mail Delivery Sector Manager (or equivalent) will respond with a decision on the appeal within one month, and;
  - if necessary, such a decision must be further appealed by a user to a Royal Mail Area Manager within one month of receipt of such response. The Royal Mail Area Manager or other senior operational manager will respond to this further appeal within two months of receipt of the appeal, with a decision.
- 4.51 If the case still remains unresolved then the user may make a final appeal to Ofcom within one month of receipt of the Royal Mail recommendation. Ofcom expects to deal only with the most difficult cases, which by their nature may take considerable time to determine. Ofcom will try to deal swiftly with any cases it receives and will aim to issue a decision on a final stage appeal within 6 months of receiving the appeal. It should be noted that if Ofcom declines to give a decision in a reasonable time when asked to do so, it may be open to review.
- 4.52 Although the process appears to be a long one, it sets out maximum timescales. There is nothing to stop the process being applied more quickly and Ofcom hopes that this will happen in most cases.
- 4.53 For **health and safety** appeal cases, Ofcom will employ a health and safety consultant to provide it with expert, independent advice. The consultant's advice will be used to identify what, if anything, could and would have to be done to make access sufficiently safe for daily deliveries to resume. Before reaching a final determination, Ofcom will take into account this advice, along with any other relevant facts. If the consultant's view differs with Royal Mail's view of the health and safety risks of the delivery route and/or remedial actions required, then Ofcom will discuss these differences with Royal Mail.
- 4.54 Ofcom recognises that Royal Mail is ultimately responsible under the relevant health and safety legislation for the safe working environment of its employees. Ofcom will therefore not seek to impose on Royal Mail a view that access is safe, when Royal Mail's own internal health and safety processes have properly determined that it is not. Ofcom expects Royal Mail to propose a summary of the minimum remedial actions required for daily deliveries to be reinstated and communicate this to the occupier(s) affected. Reinstatement of delivery would be subject to the access passing a further risk assessment once the remedial actions have been undertaken.
- 4.55 If it is clear from Ofcom's consultant's advice that the health and safety problem can be overcome, but at a cost, Ofcom will decide in the light of the available evidence whether it is reasonable to expect the customer to rectify the problem, or for Royal Mail to take steps to overcome the problem, or to allow an exception.
- 4.56 If the consultant's advice confirms that the **health and safety** problem cannot be reduced to a level that does not pose an unacceptable risk to Royal Mail staff, Ofcom may determine that the customer must receive deliveries at an approved alternative delivery point (subject to one being available).

- 4.57 Ofcom also proposes to review all relevant facts related to appeals stemming from difficulty of access cases, before determining the delivery service to be provided to the customer.
- 4.58 Ofcom does not envisage receiving appeal cases relating to the customer request category other than from new occupiers appealing against a Royal Mail decision to not reinstate daily deliveries when requested to do so. If a final stage appeal is received, Ofcom will determine the appeal on the basis of the facts of the case.
- 4.59 Ofcom will notify customers of the determination made by Ofcom on their appeal. Ofcom will also inform Royal Mail.



## Annex 1

# Direction designating geographical conditions and other circumstances as exceptional

## POSTAL SERVICES ACT 2011

### Sections 33 and 36

#### Initial

#### Condition DUSP 1<sup>6</sup>

### Direction designating geographical conditions and other circumstances as exceptional

Whereas:

- (1) On 23 March 2001 the Postal Services Commission (“Postcomm”) granted a licence (“the Licence”) under section 11 of the Postal Services Act 2000 (“the Act”) to the company then named Consignia plc and now named Royal Mail Group Ltd (“Royal Mail”).
- (2) The Licence was amended on 1 April 2003, 2 November 2005, 25 May 2006, 13 February, 14 May, 8 June, 27 November, 22 December 2009, 27 September 2010, 24 January, 29 March, 30 March and 4 August 2011.
- (3) Under Condition 2 in Part 2 of Schedule 2 to the Licence Royal Mail was required to provide a universal postal service in the United Kingdom but the interruption, suspension or restriction of any service in cases of emergency or the conclusion with customers of individual agreements as to prices was not to be taken to preclude the provision of such a service.
- (4) Under paragraph 4 of Condition 2 in Part 2 of Schedule 2 to the Licence a universal postal service was provided if, among other things, except in such geographical conditions or other circumstances as Postcomm, after consultation with Royal Mail and the National Consumer Council<sup>7</sup> (“the Council”), might by direction designate as exceptional, at least one delivery of relevant postal packets was made every working day to the home or premises of every individual or other person in the United Kingdom or to such identifiable points for the delivery of relevant postal packets within that area as Postcomm might approve in writing.
- (5) Following a consultation on exceptions to Royal Mail’s delivery service in August 2006 Postcomm published its delivery exceptions policy and Direction setting out the geographical conditions and other circumstances which may be considered to be exceptional in the longer term in April 2007 (“the 2007 Direction”).
- (6) The Consumers, Estate Agents and Redress act (“the CEAR Act”) received Royal Assent on 19 July 2007 and set out a new framework for consumer representation by creating a

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<sup>6</sup> This Direction shall continue to apply in the event that initial condition DUSP 1 is replaced by a regulatory condition that has substantially the same effect as initial condition DUSP 1.

<sup>7</sup> The National Consumer Council (known as Consumer Focus) was established under the Consumers, Estate Agents and Redress Act 2007 as “the Council”. This Direction refers to the Council in order to remain consistent with the Act.

new statutory National Consumer Council ("the Council") to replace the existing National Consumer Council and the Consumer Council for Postal Services ("Postwatch").

- (7) The functions of Postwatch under the Act were transferred to the Council under section 30 of the CEAR Act.
- (8) Postcomm modified the 2007 Direction on 1 October 2008 in light of the establishment of the Council, the abolition of Postwatch and the transfer of functions to the Council. The duration of the Direction made on 1 October 2008 was extended until 30 June 2011 (the "2008 Direction").
- (9) The Postal Services Act 2011 received Royal Assent on 13 June 2011. Under the Postal Services Act 2011, regulatory responsibility for postal services has transferred from Postcomm to Ofcom and the existing licensing regime has been replaced with a general authorisation regime.
- (10) On 1 October 2011, the existing conditions of Royal Mail's licence were transposed into initial conditions under the general authorisation regime. Initial condition DUSP 1.4 sets out the circumstances in which Ofcom may by direction designate geographical conditions and other circumstances as exceptional. These are the same circumstances as applied under Condition 2 in Part 2 of Schedule 2 to Royal Mail's licence.
- (11) Royal Mail and the Council have consented to the modifications to the 2008 Direction.

**Now, therefore**, pursuant to and for the purposes of initial condition DUSP 1.4 (or any regulatory condition that replaces initial condition DUSP 1.4 which has substantially the same effect), **Ofcom hereby directs as follows.**

Commencement, duration and interpretation.

1. This Direction replaces the 2008 Direction and shall apply until 31 December 2013.
2. This Direction shall be interpreted in the same manner as the initial condition.
3. An alternative delivery point may only be an "approved alternative delivery point" where
  - it is clearly identifiable as being the point to which mail for a specific address must be delivered;
  - the point must be a suitable and reasonably secure receptacle for mail; and
  - access conditions to the delivery point must be safe for Royal Mail to make delivery.

Long term health and safety difficulties

4. The circumstances described in paragraph 5 as being exceptional are designated as exceptional to the extent provided in paragraph 6.
5. Circumstances are exceptional for the purposes of this paragraph if and for so long as:
  - (a) Royal Mail has concluded, following a formal health and safety risk assessment and a general assessment of the circumstances, undertaken by competent staff at the instigation of Royal Mail or, where Ofcom is of the view that the circumstances have or may have changed, at the instigation of Ofcom, that –
    - (i) the circumstances involve a hazard to the health or safety of employees, sub-contractors or agents of Royal Mail which makes it unreasonable to require them to make daily deliveries of postal packets to the homes or premises at an address or addresses and that that hazard is likely to persist for the foreseeable future, and
    - (ii) there is no reasonable alternative means of overcoming the hazard so as to deliver postal packets,

- (b) the conclusion referred to in (a), and the availability of the process of appeal described in paragraph 19, have been communicated, where possible in writing, to the known occupiers of the address or addresses in question,
- (c) the conclusion referred to in (a) is found to have been reasonable at the completion of the process of appeal described in paragraph 19, and
- (d) the conclusion referred to in (a) remains valid.

6. The circumstances described in paragraph 5 as being exceptional shall be taken to be exceptional to the extent that Royal Mail shall not be required to make delivery arrangements other than those set out in an offer made to the known occupiers of homes or premises at the address or addresses in question –

- (a) of reasonable alternative delivery arrangements to an approved alternative delivery point,
- (b) notifying the process of appeal described in paragraph 19, and
- (c) in relation to which Royal Mail's offer is found to have been reasonable at the completion of the process of appeal described in paragraph 19.

#### Temporary health and safety difficulties

7. The circumstances described in paragraph 8 as being exceptional are designated as exceptional to the extent provided in paragraph 9.

8. Circumstances are exceptional for the purposes of this paragraph if and for so long as -
- (a) Royal Mail has concluded, following a formal health and safety risk assessment and a general assessment of the circumstances conducted as soon as reasonably practical after Royal Mail has become aware of the circumstances and within the preceding period of twelve months, that–
    - (i) the circumstances involve a hazard to the health or safety of employees, sub-contractors or agents of Royal Mail which requires the immediate suspension of the daily delivery of postal packets to the home or premises at an address or addresses for a period determined in the light of those assessments, and
    - (ii) there is no reasonable alternative means of overcoming the hazard so as to deliver postal packets,
  - (b) the conclusion referred to in (a), the anticipated date of resumption of daily deliveries (where that date can be anticipated) and the availability of the process of appeal described in paragraph 19 below have been communicated, where possible in writing, to the known occupiers of homes or premises at the address or addresses in question as soon as practicable after the decision not to deliver has been made, and
  - (c) if daily deliveries have been suspended for a period of twelve months or more, the circumstances, and the premises to which they relate, have been included in any report on the operation of this Direction made by Royal Mail to Ofcom and to the Council in that period of twelve months.

9. The circumstances described in paragraph 8 as being exceptional shall be taken to be exceptional to the extent that Royal Mail shall not be required to make delivery arrangements other than those set out in an offer made to the known occupiers of homes or premises at the address or addresses in question –

- (a) of reasonable alternative delivery arrangements to an approved alternative delivery point,
- (b) notifying the process of appeal described in paragraph 19, and

- (c) in relation to which Royal Mail's offer is found to have been reasonable at the completion of the process of appeal described in paragraph 19, and
- (d) in relation to which, in the case of circumstances involving the suspension of daily deliveries at more than one address or small group of addresses for more than one working day, Ofcom has been advised in writing of –
  - (i) the decision to suspend daily deliveries, and
  - (ii) the date on which Royal Mail expects to resume daily deliveries, where that date can be anticipated.

#### Long term exceptions on difficulty of access grounds

10. The difficulties of access identified in paragraph 11 are designated as comprising exceptional geographical conditions to the extent provided in paragraph 12.

11. The difficulties of access identified for the purposes of this paragraph are continuing difficulties of access due to –

- (a) location on an island or other place only accessible by boat which has a limited scheduled air or ferry service,
- (b) location at a place only accessible by boat which does not have any public transport service,
- (c) the need to make round trips to premises over private roads or tracks (whether or not they are the subject of public rights of way) which are in poor condition (but not in such poor condition as to preclude delivery on health and safety grounds) in excess of 15 minutes –
  - (i) by a vehicle driven in a safe manner, or
  - (ii) by foot if access by vehicle is not reasonably practical.

12. The difficulties described in paragraph 11 shall be taken to comprise geographical circumstances that are exceptional to the extent that Royal Mail shall not be required to make delivery arrangements other than –

- (a) in the case of location on an island or other place only accessible by boat which has a limited scheduled air or ferry service, delivery on the days when an air or ferry service is available at times reasonably compatible with Royal Mail's operations, or
- (b) in the case of location on an island, or at a place only accessible by boat, which does not have a scheduled ferry service, delivery where possible not less than once a week using local agents when it is safe to make a delivery, or
- (c) in the case of remoteness or difficulty of access due to length of time for the round trip along private access roads or tracks (whether or not they are the subject of public rights of way) in poor condition, the arrangements set out in an offer made to the known occupiers of homes or premises at the address or addresses in question –
  - (i) of reasonable alternative delivery arrangements to an approved alternative delivery point,
  - (ii) notifying the process of appeal described in paragraph 19, and

Direction designating geographical conditions and other circumstances as exceptional for the purpose of deliveries

- (iii) in relation to which Royal Mail's offer is found to have been reasonable at the completion of the process of appeal described in paragraph 19, and
- (d) in all cases, on days when Royal Mail is not required to deliver to any address or to an agreed alternative delivery point, making postal packets for that address available for collection free of charge but subject to identity verification at the local delivery office or in accordance with such other alternative arrangements as may be agreed with the occupiers of the address.

#### Temporary suspension on difficulty of access grounds

13. The circumstances described in paragraph 14 as being exceptional are designated as exceptional to the extent provided in paragraph 15.

14. Circumstances are exceptional for the purposes of this paragraph if and for so long as one or more of the known occupiers of a home or premises at an address has by their own act or default or through persons acting on their behalf made it impossible or considerably difficult for Royal Mail to make deliveries to their home or premises.

15. The circumstances described in paragraph 14 as being exceptional shall be taken to be exceptional to the extent that Royal Mail shall not be required to make delivery arrangements other than those set out in an offer made to the known occupiers of homes or premises at the address or addresses in question –

- (a) of reasonable alternative delivery arrangements to an approved alternative delivery point,
- (b) notifying the process of appeal described in paragraph 19, and
- (c) in relation to which Royal Mail's offer is found to have been reasonable at the completion of the process of appeal described in paragraph 19.

#### Customer request

16. The circumstances described in paragraph 17 as being exceptional are designated as exceptional to the extent provided in paragraph 18.

17. Circumstances are exceptional for the purposes of this paragraph if Royal Mail has received a request that postal packets to be delivered to that address should not be delivered to, or directly to, or every working day to, or at, the home or premises at that address, where that request

- (a) reasonably appears to have been made by or on behalf of all the known occupiers of a home or premises at an address,
- (b) complies with the reasonable terms and conditions of any product or service involved, and
- (c) is accepted by Royal Mail, or

where Royal Mail has refused to accept that request, that request is found to have been reasonable at the completion of the process of appeal described in paragraph 19.

18. The circumstances described in paragraph 17 as being exceptional shall be taken to be exceptional to the extent that Royal Mail shall not be required to make delivery arrangements other than those requested by or on behalf of those occupiers.

#### Appeals process

19. The process of appeal referred to in this Direction is as follows.

(a) The stages of the process are as set out in the following table.

Stage	Decision to be reviewed	Initiator of review	Reviewer	Time limit for commencement by initiator of review	Decision to be given by reviewer
1	Initial decision of Royal Mail	Customer	Royal Mail Delivery Sector Manager or equivalent	3 months from receipt of initial decision	1 month from receipt of reference
2	Decision of Royal Mail after Stage 1 review	Customer	Royal Mail Area Manager or other senior operational manager	1 month from end of Stage 1	2 months from receipt of reference
3	Obligation of Royal Mail after Stage 2 Review	Customer	Ofcom	1 month from end of Stage 2	No time limit

- (b) A request for review or to move to the next stage of the process should be made in writing by the customer to the Royal Mail Delivery Sector Manager, to the Royal Mail Area Manager or to Ofcom, as appropriate for the stage and the stage shall be deemed to commence on the date of receipt of that request.
- (c) Stages 1 and 2 of the process shall be deemed to have been completed on receipt by the customer of the written decision of the reviewer provided that if no such decision has been received within one month of commencement in the case of stage 1 and two months of commencement in the case of stage 2 the customer may regard the stage as completed with a rejection of their request and proceed to the next stage.
- (d) At each stage in the above process the person considering the matter may consider it afresh, without limitation by reference to the information made available at earlier stages in the process or to decisions made earlier.
- (e) The manner in which the process is applied at each stage is at the discretion of the person taking decisions at that stage.
- (f) The process is completed when a decision has been given to the customer on a reference made to Ofcom or, at any earlier stage, if the customer has indicated that he is content or declines to refer the matter to the next stage within the time period stipulated.
- (g) The outcome of the process will be the decision most recently taken at the time when the process is completed.



**Claudio Pollack**  
**Group Director, Consumer Group**

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

**21 February 2012**

## Annex 2

# Approval of identifiable points for delivery of relevant postal packets

## POSTAL SERVICES ACT 2011

### Sections 33 and 36

### Initial Conditions DUSP 1<sup>8</sup>

## Approval of identifiable points for delivery of relevant postal packets

Whereas:

- (1) On 23 March 2001 the Postal Services Commission (“Postcomm”) granted a licence (“the Licence”) under section 11 of the Postal Services Act 2000 (“the Act”) to the company then named Consignia plc and now named Royal Mail Group Ltd. (“Royal Mail”).
- (2) The Licence was amended on 1 April 2003, 2 November 2005, 25 May 2006, 13 February, 14 May, 8 June, 27 November, 22 December 2009, 27 September 2010, 24 January, 29 March, 30 March and 4 August 2011.
- (3) Under Condition 2 in Part 2 of Schedule 2 to the Licence Royal Mail is required to provide a universal postal service in the United Kingdom but the interruption, suspension or restriction of any service in cases of emergency or the conclusion with customers of individual agreements as to prices was not to be taken to preclude the provision of such a service.
- (4) Under paragraph 4 of Condition 2 in Part 2 of Schedule 2 to the Licence a universal postal service was provided if, among other things, except in such geographical conditions or other circumstances as Postcomm, after consultation with Royal Mail and the National Consumer Council<sup>9</sup> (“the Council”), might by direction designate as exceptional, at least one delivery of relevant postal packets was made every working day to the home or premises of every individual or other person in the United Kingdom or to such identifiable points for the delivery of relevant postal packets within that area as Postcomm might approve in writing.
- (5) In August 2006 Postcomm consulted Royal Mail and Postwatch as to the geographical conditions and other circumstances which may be considered to be exceptional. In that consultation Postcomm also sought views on alternative identifiable points for the delivery of relevant postal packets that it should approve.
- (6) Following that consultation, Postcomm, in April 2007, published the delivery exceptions policy and Direction setting out the geographical conditions and other circumstances which may be considered to be exceptional in the longer term and an approval of alternative identifiable points for the delivery (“the 2007 Approval”).

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<sup>8</sup> This Direction shall continue to apply in the event that initial condition DUSP 1 is replaced by a regulatory condition that has substantially the same effect as initial condition DUSP 1

<sup>9</sup> The National Consumer Council (known as Consumer Focus) was established under the Consumers, Estate Agents and Redress Act 2007 as “the Council”. This Direction refers to the Council in order to remain consistent with the Act.

- (7) The Consumers, Estate Agents and Redress Act (“the CEAR Act”) received Royal Assent on 19 July 2007 and set out a new framework for consumer representation by creating a new statutory National Consumer Council (“the Council”) to replace the existing National Consumer Council and the Consumer Council for Postal Services (“Postwatch”).
- (8) The functions of Postwatch under the Act were transferred to the Council under section 30 of the CEAR Act.
- (9) Postcomm modified the 2007 Approval on 1 October 2008 in light of the establishment of the Council, the abolition of Postwatch and the transfer of functions to the Council (the “2008 Approval”).
- (10) The Postal Services Act 2011 received Royal Assent on 13 June 2011. Under the Postal Services Act 2011, regulatory responsibility for postal services has transferred from Postcomm to Ofcom and the existing licensing regime has been replaced with a general authorisation regime.
- (11) On 1 October 2011, the existing conditions of Royal Mail’s licence were transposed into initial conditions under the general authorisation regime. In line with Condition 2 in Part 2 of Schedule 2 of Royal Mail’s licence, initial condition DUSP 1 also confirms that nothing in the condition requiring the provision of the universal service should be read as requiring a service to continue without interruption, suspension or restriction in an emergency or as preventing individual agreements as to price from being concluded with customers.
- (12) Initial condition DUSP 1.4 sets out the circumstances in which Ofcom may by direction designate geographical conditions and other circumstances as exceptional. These are the same circumstances as applied under Condition 2 in Part 2 of Schedule 2 to Royal Mail’s licence.
- (13) Royal Mail and the Council have consented to the modifications to the 2008 Approval.


**Now, therefore**, pursuant to and for the purposes of initial condition DUSP 1.4 (or any regulatory condition that replaces initial condition DUSP 1.4 which has substantially the same effect), **Ofcom hereby approves** those points described in paragraph 1 and which comply with paragraph 2 as identifiable points for the delivery of relevant postal packets, subject to paragraphs 3 to 5.

1. The points described in this paragraph are –
  - (a) in relation to postal packets addressed to any person who has entered into an agreement with Royal Mail for the redirection of their mail or other such service entered into between the customer and Royal Mail, the appropriate delivery point for the address to which those postal packets are to be redirected in accordance with the agreement,
  - (b) in relation to postal packets addressed to any person who has entered into an agreement with Royal Mail for the use of a PO Box or other retention facility at a post office or other site, that PO box or other facility,
  - (c) any reasonable point for the receipt of postal packets provided by or on behalf of any addressee of them at or reasonably close to the home or premises of that addressee or to the route taken as most convenient by persons seeking access thereto,
  - (d) in relation to any postal packet –



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- (i) which reasonably appears to Royal Mail to be of a type for which a receptacle for letters at an address is not suitable, or
  - (ii) addressed to any home or premises that reasonably appear to Royal Mail, through being impermanent or not permanently occupied, to be insufficiently secure to receive it,
- the point to which postal packets are returned in accordance with Royal Mail's reasonable usual practices for postal packets which cannot be delivered securely to the home or premises at an address,
- (e) any point which, in relation to any geographical condition or other circumstance being designated as exceptional by Ofcom, is agreed or determined to be an alternative point for the receipt of postal packets for a particular home or premises, and
  - (f) any reasonable point that is provided by Royal Mail for the receipt of postal packets delivered using a Postbus service.
2. In order to comply with this paragraph a point shall be –
- (a) clearly identifiable by Royal Mail and by addressees of postal packets as being the point to which mail addressed to a specific address should be delivered;
  - (b) generally suitable as a receptacle for –
    - a. letters, and
    - b. in the case of points described in paragraph 1(d), relevant postal packets;
  - (c) safe for Royal Mail staff to make the delivery.
3. If any of the known occupiers of a home or premises at any address is of the view that a decision of Royal Mail in relation to any of the provisions of this approval that relates to his home or premises is not reasonable that decision shall be deemed to be reasonable until the issue is resolved following the application to it of the process of appeal set out in the Direction of Ofcom designating geographical conditions and other circumstances as exceptional that comes into effect on 31 December 2011.
4. This approval shall be interpreted in the same manner as the initial conditions.
5. This approval replaces the 2008 Approval and shall remain in effect until it is revoked or otherwise replaced.



**Claudio Pollack**

**Group Director, Consumer Group**

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

**21 February 2012**