

Centre for Consumers and Essential Services University of Leicester

Response to Ofcom's Review of Consumer Complaints Procedures

1. Introduction and key points

The Centre for Consumers and Essential Services (CCES) welcomes the opportunity to respond to Ofcom's consultation on consumer complaints procedures. Good complaint handling and redress systems matter a great deal to consumers, particularly those in vulnerable circumstances. Communications services have become essential for social and economic participation and, in some situations, service failures can have serious consequences for consumers. Moreover, these services increasingly act as a gateway to other services, including those that are also essential for everyday life such as health and social care and utility services. When things go wrong, consumers need easy access to good complaints handling schemes and independent redress systems if the complaint is still unresolved.

Ofcom's evidence that a significant proportion of consumers have a very poor experience when pursuing a complaint with their provider is extremely concerning. It is unacceptable that 30% of complaints remain unresolved after 12 weeks. Similarly, it is unacceptable that the majority of consumers who cannot resolve their complaint promptly have considerable difficulty getting their provider to recognise they are trying to make a complaint, and in finding out information about the complaints process. This evidence demonstrates a substantial level of consumer detriment. As Ofcom states, those consumers who are unable to resolve their complaint within 12 weeks are much more likely to suffer financially or through stress. People on low incomes and in other vulnerable circumstances are disproportionately likely to experience these effects. The very low level of consumer awareness of ADR in the telecommunications sector is also of great concern - only 8% of consumers are aware that they can take unresolved complaints to ADR.

There is a high level of agreement on the basic principles that should form the foundations of companies' complaint handling schemes, which we have drawn together in previous research from national and international published standards and academic and other work:

1. **Highly visible procedures** – including clear information about how to make and pursue a complaint with a single point of contact; and clear and accurate feedback on how the complaint is processed and escalated.
2. **Easy and free access** – removal of all unnecessary access barriers; provision of 0800 numbers and call back facilities.

3. Effective company protocols – to achieve high levels of quality assurance and performance. These must include a sector-wide, well-understood and accepted definition of what constitutes a complaint; accurate recording methods including provision of customer reference numbers at the outset; secure and efficient data handling; and follow up procedures to check consumer satisfaction with the way that complaints are handled.

4. Fairness and consistency – treating all customers fairly and with respect; having consistent processes for resolving complaints and determining outcomes.

5. Responsiveness – clear and appropriate time limits for resolving the majority of consumer complaints and, where necessary, flexibility for dealing with complex complaints together with keeping the complainant informed.

6. Organisational ownership and commitment – the importance of good complaint handling and of regular analysis of complaints data should be understood and supported at all levels throughout the company. Substantial efforts should be made to ensure that the most effective organisational structures and procedures are in place, including robust staff training and monitoring.

(Complaint handling: Principles and Best Practice, report for energywatch, Centre for Utility Consumer Law, 2007)

Ofcom's questions

Our recommendations in reply to Ofcom's questions are set out below. The rest of our response discusses some issues in more detail.

Question 1: We consider that a common definition of a complaint is essential and agree with Ofcom's proposed definition.

Question 2: Communications services are essential for social and economic participation. When something goes wrong, good complaints handling is vital and the current approach to complaints handling in the telecommunications market is of unacceptably low quality. Regulatory intervention is urgently required to protect consumers' interests.

Question 3: We strongly agree with the principle that communications providers (CPs) should be required to comply with a single Ofcom Approved Complaints Code of Practice.

Question 4: The transparency of complaints handling procedures is of utmost importance for consumers, and we agree with the proposed obligations on CPs in this respect.

Question 5: In principle we welcome Ofcom's proposal to place obligations on CPs regarding complaints handling procedures.

Question 6: We support most of the proposed obligations for CPs. But we are concerned that consumers without internet access may not be provided with information about the Code unless they request it. The CPs should have obligations to provide consumers with a copy of the Code when they register a complaint. We strongly disagree with the proposal to allow CPs to charge geographic call rates to consumers who need to lodge a complaint.

Question 7: We strongly urge Ofcom to take steps to improve awareness of ADR.

Question 8: We strongly support Ofcom's proposals for increasing the awareness of ADR schemes. The combination of providing information in the context of general information about the providers' procedures for handling complaints and providing information about ADR schemes on bills is an appropriate way of raising consumer awareness.

We also strongly support the proposal that consumers whose complaint has not been resolved within eight weeks of their first contact with front-line staff should receive written information about their right to go to ADR. We would suggest that, in addition, providers should be under an obligation to inform consumers of their right to go to ADR when they make offers to resolve complaints.

We support the proposal that providers should be required to issue a deadlock letter upon request.

Question 9: We agree that the suggested text should be included on paper and electronic bills.

Question 10: We agree with these proposals on record-keeping. We think, however, that Ofcom should be prepared to re-visit this issue if it becomes apparent that insufficient information is available for the resolution of disputes. We would be very concerned if simply a lack of information on the providers' side was sufficient, in itself, to dismiss a consumer complaint, as this would give an incentive to have less effective record keeping.

Question 11: We consider that the proposals capture Ofcom's policy intentions.

2. Common definition of a complaint

We strongly support Ofcom's view that a common definition of a complaint is required. This is not only because of the need to ensure that all consumers are therefore protected in the same way regardless of the communications provider they chose but also because of the need for proper recording of complaints. We agree that this should be based on the ISO definition and understand the need to refine the definition to take account of the legislative framework. Consequently we support Ofcom's proposed definition:

Complaint means *'an expression of dissatisfaction made by a customer to a Communications Provider related to the Communications Provider's provision of Public*

Electronic Communications Services to that customer, or to the complaint-handling process itself, where a response or resolution is explicitly or implicitly expected.'

We also agree with Ofcom's position that network faults must be included in any regulatory obligations on complaint handling. Technical service delivery is an integral part of communications services. It is inconceivable that consumers should not have the same degree of protection regarding complaints on network failures as in other aspects of communications products and services.

3. Problems with complaints procedures

It is abundantly clear that there are fundamental problems with companies' complaint procedures. We welcome Ofcom's initiative in commissioning in-depth research showing how the complaints experience impacted on consumers. The findings highlight the considerable degree of detriment caused by poor complaints procedures, especially those with long-lasting complaints who are much more likely to experience very high levels of stress and worry. It is also vital to note that these effects are likely to be even more serious for consumers who are in vulnerable situations, for example, those who are trying to cope with low incomes, caring responsibilities, unemployment or long-term medical conditions. We are also greatly concerned about the very low levels of awareness of ADR: 77% of complainants that could potentially use ADR are completely unaware that such a service is available. This is especially concerning as such complaints have lasted at least 12 weeks, as Ofcom points out.

4. Minimum standards for complaint handling

In our view targeted regulatory intervention is urgently needed to remedy what has become an unacceptable situation for consumers regarding companies' complaint handling procedures. We support option 3 in the consultation document which would establish a single Ofcom Code of Practice. It is essential that Ofcom is able to monitor areas of concern and to highlight any possible breaches of the Code, as well as having powers to investigate and take appropriate enforcement action if it reasonably believed that a provider's complaints handling procedures were contravening the Code. These elements are essential components for a proper framework of consumer protection and effective regulation.

We agree with most of the proposed obligations. However, we disagree with the proposal to allow CPs to charge geographic call rates as one of the options they offer to consumers lodging a complaint. These should be free of charge and we cannot see why consumers should have to pay extra costs and in effect be penalised for making a complaint. Clearly this option is also likely to deter people on low incomes from making a complaint, and some may well be without internet access. We are also concerned that consumers without internet access may not be provided with information about these procedures unless they request it. The CPs should have obligations to provide consumers with a copy of the Code when they register a complaint.

March 2010