



**Royal Mail's response to Ofcom's -  
Proposed direction relating to  
exceptions to the postal deliveries  
Universal Service Obligation, and  
minor amendment to Designated  
Universal Service Provider Condition 1**

**22 November 2013**

## ***Executive Summary***

Royal Mail welcomes Ofcom's proposal to make a new Deliveries Direction. The current Direction is time limited and will expire on 31 December 2013. We also welcome a review of the existing approval of alternative delivery points under the DUSP conditions, which is closely linked to delivery exceptions.

We agree with Ofcom's assessment that for delivery exceptions, "*the current arrangements are proportionate and effective*"<sup>1</sup>. As Ofcom state, exceptions to deliveries represent a very small proportion of all addresses. Royal Mail makes every effort to deliver six days per week to all addresses and will only not do so in exceptional circumstances.

In 2012, Royal Mail delivered to c29 million addresses with only 3,000 (0.01%) being subject to exceptions. There are very low numbers of complaints regarding delivery exceptions. Since October 2011, Ofcom report that, "*out of a total of 1,011 complaints on postal issues, only ten complaints (0.1% of all complaints) related to delivery exceptions.*"<sup>2</sup> Furthermore, Consumer Futures have not identified any concerns with exceptions and "*its overall view is that the current approach to delivery exceptions is working effectively.*"<sup>3</sup> Also only eight appeals since 2003 have been referred to the Regulator, which further illustrates that the current process is working well.

Ofcom have, however, identified some areas where it considers improvements could be made to the current Direction. We agree with the majority of these technical changes, as proposed, and the improved clarification these provide. In our response, we discuss areas of the proposals which we suggest should be amended: to better reflect current process; to provide further clarity; or where in a few cases the proposed changes would represent an unnecessary extra reporting burden on Royal Mail, particularly in light of Ofcom's assessment that the current arrangements are "*proportionate and effective*", and should be removed.

In summary we consider:

- **Difficulty of access other** – we would like Ofcom to amend the draft Direction to make clear that an exemption under this category would apply for any blockage regardless of who has blocked access.
- **Exceptions affecting users who may be particularly disadvantaged** – it should be made clear that this requirement will not apply if the reason for the exception is for health and safety issues.

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<sup>1</sup> Proposed direction relating to exceptions to the postal deliveries Universal Service Obligation, and minor amendment to Designated Universal Service Provider Condition 1 October 2013 p1

<sup>2</sup> Ofcom's consultation document p13

<sup>3</sup> Ofcom's consultation document p14

- **Alternative delivery arrangements** – it should be made clear that in implementing any such arrangement that Royal Mail can assess if requests are appropriate and proportionate.
- **Re-notification that exceptions are in place** – Royal Mail believes the current process is working effectively, as evidenced by the low number of complaints, and so considers this requirement is unnecessary.
- **Reviews and Appeals, health and safety exceptions** – greater detail is required on the process Ofcom will follow during an appeal. Given the health and safety requirements placed on Royal Mail we do not believe it appropriate for Ofcom to overrule exceptions based on health and safety assessments.
- **Facilities for vulnerable groups** – we would welcome clarification that should a vulnerable customer wish to be represented by a third party the customer must provide confirmation to Royal Mail. The Direction should be clearer as to the limit of the USP's obligation in providing support.
- **Reporting Requirements** – the proposed changes to reporting requirements would significantly increase the reporting burden and cost for Royal Mail, without we believe, any material benefit to customers and is therefore unnecessary.

Suggested amendments to the proposed Direction are at Annex A.

## ***Appropriate categories of exceptions***

### **Difficulty of access: other**

Access problems may arise where access to a customer's home or premises has been blocked by the occupier or a third party, or where the occupier/third party has made it extremely difficult or impossible for Royal Mail to reach the delivery point. Royal Mail welcomes Ofcom's continued position that the universal service provider should not be expected to pay to access a premise to deliver mail.

There is, however, some potential ambiguity within Paragraph 10(b) and we ask Ofcom remove the reference to "*that other person by their own act or by default prevents access or renders access extremely difficult*" and instead make it clear that the exemption category applies where access has been restricted or denied access. Whilst we would always seek to meet our delivery obligations, we consider that any blockage should apply regardless of who has blocked access.

## ***Exceptions affecting users who may be particularly disadvantaged***

Currently, as part of the exceptions process, if Royal Mail is made aware that a customer has difficulties in terms of age, disability or ill-health we will make every effort to reach a reasonable arrangement, such that these customers are caused the minimum of inconvenience.

Ofcom propose in Paragraph 13 (a), that the Universal Service Provider should "*consider whether it would be appropriate and proportionate to make deliveries in spite of the exceptional circumstances*"<sup>4</sup>. This would include any exceptions in place due to health and safety reasons. Although in the majority of cases we will make every effort to ensure vulnerable users' needs are taken into account, for those exceptions that are due to health and safety concerns, Royal Mail has a continuing duty of care to its employees and others affected by our operations to ensure that they are safe. We therefore, propose additional wording be inserted to cover this particular situation.

Paragraph 13 (d) "*for the avoidance of doubt, nothing in (a) should be read as taking priority over the universal service provider's health and safety obligations.*"

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<sup>4</sup> Ofcom's Draft Direction, paragraph 13(a) [emphasis added]

## ***Alternative delivery arrangements***

We support Ofcom's position that the Direction should specify clearly what alternative delivery arrangements should be offered, both to improve transparency and reduce the scope of disputes. Royal Mail currently considers alternative delivery arrangements on a case by case basis and where possible will send a letter to the customer prior to suspension of delivery, explaining the issues, any remedial actions required, and offer a reasonable alternative delivery arrangement.

Ofcom propose, *"that, on the affected person's request, postal packets be redirected free of charge to an alternative address served by the same delivery office - which could include a Post Office."*<sup>5</sup> Whilst Royal Mail aims to always work with customers to find a viable solution to any delivery exception, and agree with Ofcom's proposal in general, we consider that an unqualified obligation to offer alternative means of delivery places a disproportionate burden on Royal Mail. There already exist a number of free redelivery options for customers, including picking the item up from the delivery office or delivery to a neighbour or friend.

In light of the many existing options available to customers, we suggest the wording in Paragraph 14 be amended as follows to enable Royal Mail to assess any customer requests for alternative arrangements to ensure they are appropriate and proportionate: *"In every case in which pursuant to this Direction the universal service provider does not deliver to a particular delivery point, except if the exceptional circumstances concerned arise under paragraph 11 (Customer request), the universal service provider shall, where it considers it appropriate and proportionate to do so, shall:"*

Additionally, we would like it made clear that this requirement has no connection with an obligation to provide Royal Mail's "Redirections" product – which is a paid for service offered by Royal Mail. We suggest the following addition to Paragraph 14 (b) *"[...] and to effect such arrangements within one week of the individual's request. Agreement by the universal service provider to deliver to an alternative address in accordance with this paragraph does not amount to a requirement to offer the product called Redirection."*

We also consider that the exemption allowing Royal Mail to not redeliver should apply to any case where there is a legal obligation on Royal Mail not to do so – not just, as currently drafted where there is a substantial risk of crime. This will enable Royal Mail to take account of any possible future statutory changes without risking a breach of Ofcom's Direction. We request additional wording to Paragraph 15: *"[...] the provision of the service in relation to those postal packets would create a substantial risk of crime or give rise to a potential breach of any other legal obligation to which the universal service provider is subject."*

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<sup>5</sup> Ofcom's consultation document p20

## ***Notifications***

As currently drafted Ofcom's proposed Direction for the delivery of any notice to be given under Paragraphs 16 and 17 is contained in Paragraphs 18 and 19. Royal Mail does not believe that the different requirements for delivery options, depending on the circumstance that brought about the exception, are relevant. Further, the current differential requirement may lead to confusion. We therefore request that Paragraph 18 be removed.

Ofcom propose that Royal Mail is required to re-notify customers where exceptional circumstances have persisted for more than 24 months. We believe this requirement is unnecessary given current processes where Royal Mail engages in dialogue with affected persons regarding the circumstances and available options. In addition we note the following in respect of specific exceptions:

1. If a property subject to an exception has been sold or rented to a new occupier and they do not receive post they will contact their local delivery office to discuss why. Royal Mail will then enter into dialogue with the new occupier regarding the exception and give them the opportunity to inform us if they believe circumstances have changed or to put a different arrangement in place.
2. For difficulty of access and Health & Safety cases we undertake an annual review. Part of which is to confirm the reason for the exception is still applicable and make any change to the exception if appropriate.
3. Should a customer request an increase in the number of days deliveries to a particular address, due to a change in circumstance, we will re-assess our ability to do so.
4. Where a suspension is in place due to health and safety reasons customers will be aware of the reasons and need for improvement / repair / maintenance required before deliveries may be resumed.

Notwithstanding our consideration that current processes work effectively. Paragraph 22 of the draft Direction makes reference to Paragraph 17(g) of the draft Direction, whereby the occupier may seek a review regardless of whether circumstances have changed. We believe this should be amended to make clear that circumstances need to have changed in order for an exception to be reviewed. Exceptions are put in place in only very limited circumstances but to prevent unnecessary reviews from a vexatious customer we would reserve the right to require evidence that there is a legitimate reason to ask for a review.

Ofcom has raised concerns that they wish customers to be made aware of the appeals process; all exceptions correspondence templates already include details of the appeals process. In order to aid customer awareness, we will ensure that all standard letters used as part of the exceptions and appeals processes are edited to include a line reminding customers 'that Royal Mail will be happy to review any case should there be an improvement / change to the circumstances resulting in a less than 6 day delivery service'. Additionally, Royal Mail will introduce more information onto our customer facing website [www.royalmail.com](http://www.royalmail.com) by March 2014.

If Ofcom take forward their proposal for Royal Mail to issue reminder notices, we suggest Paragraph 21 is amended slightly to reflect current processes: *“In relation to delivery points for which exceptional circumstances have persisted for 24 months or more, the universal service provider must within three months of each annual review from 31 March 2014, issue a reminder notice to, as relevant.”*

Paragraph 23 of the Direction relates to Royal Mail’s reporting obligations when new exceptional circumstances arise in relation to more than one delivery point. We suggest the following minor amendment to make clear this requirement relates to new cases only, in order to prevent a disproportionately burdensome retrospective obligation: *“The universal service provider must notify OFCOM within one week of any new case arising in which exceptional circumstances have persisted for more than one working day and affect more than one delivery point.”*

## ***Review and Appeals***

### **Health and safety exceptions**

The safety and welfare of our staff is paramount and we only suspend deliveries as a last resort if the safety of our postmen and women is at risk. For example, dog attacks are a significant hazard, faced by postmen and women on a daily basis. From April 2011 to April 2013, there were over 5,500 attacks on Royal Mail postmen and women, some leading to a permanent disabling injury.

Royal Mail is continuing to work with the CWU and external animal charities and organisations to raise awareness of the problem postmen and women face with regards to dog attacks. Through proactive dog awareness campaigns to encourage dog owners to take responsibility for keeping their pets under control so that we can deliver the mail safely and reduce the number of attacks further. We also regularly communicate with our postmen and women about the dangers of dog attacks and provide advice to our postmen and women on techniques to minimise harm in the event of an attack.

Royal Mail is required by law to, as far as is reasonably practicable, provide a safe working environment for its employees and others affected by its operations, we therefore have a robust risk assessment policy for identifying, assessing and managing health and safety risks. Before any exception is made on health and safety grounds a risk assessment will be undertaken by a trained member of staff.

The current drafting of the Direction would enable Ofcom to overturn an exception decision that had been made on health and safety grounds. Royal Mail agrees that Ofcom should have a degree of oversight of any appeal, however Ofcom should have regard to Royal Mail’s legal obligations under Health and Safety legislation, both to its employees and to any person affected by its operations.

In light of the rigorous process we undertake when assessing health and safety risks, Royal Mail is in the best position to judge whether it has satisfied its statutory obligations. Ofcom will be aware that, as a matter of law, these obligations are placed on Royal Mail and it is for Royal Mail to determine how best to discharge them. We are therefore concerned that Ofcom asserts it may override a health and safety exception which has been put in place by Royal Mail (which is the duty holder).

We therefore recommend that further detail should be specified in the Direction which sets out the process Ofcom would follow during an appeal. We suggest that a new Paragraph 28 be inserted into the Direction and that the current Paragraph 29 be revised as below:

*[28] Subsequent to the review process set out in paragraphs [24] to [27] should an appeal be brought in front of OFCOM then the following process will apply:*

- a) OFCOM shall provide written notice to the universal service provider setting out the grounds of the appeal;*
- b) the universal service provider shall have an opportunity to make written representations responding to the appeal;*
- c) OFCOM shall, having had due regard to the evidence in front of it and, in particular, any health and safety concerns raised by the universal service provider issue a provisional decision;*
- d) The universal service provider and the person who requested the appeal shall have the opportunity to make representations in relation to the provisional decision;*
- e) In circumstances where the universal service provider has made representations that the exceptional circumstance is necessary to protect the health and safety of the universal service provider's employees, or others affected by its operations, OFCOM may require the universal service provider to carry out a further health and safety assessment, such assessment to be carried out by a suitably qualified professional.*
- f) In the circumstance that a health and safety assessment (as described in (e) above) finds there is a risk to the health and safety of the universal service provider's employees, or others affected by its operations, OFCOM may not require deliveries to be made to the delivery point concerned but may request that the universal service provider reasonable consider alternatives to a collection in the location concerned.*
- g) OFCOM's final decision shall be issued having given due regard to all the representations made.*

*[29] Subject to the process set out in paragraph 28, Ofcom's final decision as to whether exceptional circumstances have arisen shall be binding.*

## Facilities for vulnerable Groups

Currently, should a member of the public contact Royal Mail's Customer Services and inform the staff they are vulnerable, their case will be referred to a specialist team who can provide services such as Braille and or other assistance in order to help facilitate any complaint. We agree, with Ofcom, that these special arrangements should remain in place.

We would, however, welcome clarification that should a vulnerable customer wish to be represented by a third party, that customer must provide confirmation of this to the universal service provider. This would reflect the current process which works effectively and would prevent possible confusion about whether a third party was representing a vulnerable person or in fact acting unilaterally. Royal Mail will then conduct all proceedings via that third party. To ensure that Royal Mail obtains sufficient confirmation from third parties we request that Paragraph 24(a) be amended as follows: "*within one month of a request made by any person with sufficient interest in the excepted delivery point in accordance with the information specified in paragraph 17(h).*"

We also consider the proposed Direction should be clearer as to the limit of the USP's obligation in providing support to appellants. We suggest clarifying that the obligation to provide assistance is only to the extent that it will prevent the appellant from experiencing any material disadvantage and require a reasonable level of expense to be incurred by Royal Mail.

[29 ] "*The universal service provider shall at its own reasonable expense make facilities available to ensure that no person is materially disadvantaged by reason of age, disability, ill health or because English is not the person's first language, in relation to the making of a review request, the conduct of any review or the conduct of any second stage review.*"

## Reporting requirements - Customer requests

We agree with Ofcom that it remains appropriate and not unduly onerous for Royal Mail to continue to report annually on the number of exceptions. The current reporting provides an appropriate level of detail and enables all postal users to access information on the volume of delivery exceptions.

Ofcom have, however, proposed an additional reporting requirement in relation to customer requests that would significantly increase the reporting burden and cost for Royal Mail, without we believe, any material benefit to customers or the regulator.

If a customer asks for an alternative delivery arrangement, wherever practicable, Royal Mail will seek to meet the customer's wishes. To change the current delivery arrangements, a customer will contact their local delivery office to discuss the matter.

Currently these requests are not included in the annual reporting of delivery exceptions. To include delivery exceptions due to customer requests would incur significant cost and considerable man hours to capture all the requested data. Royal Mail believes that this should continue to be

the case given the nature of such exceptions. These exceptions are a direct result of customer choice and do not reflect any inability on Royal Mail's part to carry out its duties and therefore are not reflective of our ability to meet the USO obligations and should be excluded from the reporting requirements currently contained in Paragraph 30-32 of the draft Direction.

## ***Conclusion***

Royal Mail generally concurs with Ofcom's amendments to the Delivery Direction, subject to the proposed amendments within this document and as at Annex A.

Royal Mail has no concerns regarding Ofcom's proposal changes to the DUSP condition on approval of alternate delivery points.

## ANNEX A – OFCOM’S DRAFT SCHEDULE AND ROYAL MAIL’S PROPOSED AMENDMENTS

### SCHEDULE DIRECTION GIVEN UNDER DESIGNATED USP CONDITION 1.3.2 AND 1.3.2A DESIGNATING GEOGRAPHICAL CONDITIONS AND OTHER CIRCUMSTANCES AS EXCEPTIONAL FOR THE PURPOSE OF DELIVERIES AND REQUIRING ASSOCIATED PROCEDURES, NOTIFICATIONS, REPORTING AND ALTERNATIVE DELIVERY ARRANGEMENTS

Ofcom hereby directs as follows

#### Commencement

1. This Direction shall come into effect on 31 December 2013.

#### Interpretation

2. In this Direction—
  - a. “**Consumer Futures**” means:
    - (i) prior to 1 April 2013, the Council; and
    - (ii) after 1 April 2013, each of the National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux and the General Consumer Council of Northern Ireland;
  - b. “**delivery office**” means premises used by the universal service provider to sort mail;
  - c. “**delivery point**” means any home or premises of any individual or other person in the UK; and any delivery point approved by OFCOM for the purposes of Designated USP Condition 1;
  - d. “**scheduled service**” means a ferry or aeroplane service:
    - (i) which is available to the general public;
    - (ii) in relation to which a timetable is published; and
    - (iii) the running of which on any particular day does not depend on more than one passenger being aboard;
  - e. “**working day**” means any day which is not a Sunday or a public holiday in the place where the delivery point concerned is located.
3. For the purpose of interpreting this Direction—
  - a. except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Designated USP Condition 1;
  - b. except in so far as the context otherwise requires, or as ascribed for the purposes of Designated USP Condition 1, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Postal Services Act 2011;

c. headings and titles shall be disregarded;

d. expressions cognate with those referred to in this Direction shall be construed accordingly; and

e. the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.

### Exceptions

4. The circumstances specified in paragraphs 5 to 11 are exceptional for the purposes of deliveries to the delivery points concerned.

#### *Health and safety*

5. The circumstances specified in this paragraph are that:
- (a) delivering to the delivery point concerned involves an immediate hazard to the health or safety of employees, sub-contractors or agents of the universal service provider such that it is not reasonable to require them to make the delivery; and
  - (b) there is no reasonable means of overcoming the hazard so as to deliver postal packets.
6. For the purposes of paragraph 5, an immediate hazard to health or safety which persists for longer than two weeks must be evidenced by a formal health and safety risk assessment and a general assessment of the circumstances, which must be conducted by an appropriately competent and experienced individual as soon as reasonably practical after the universal service provider has become aware of the circumstances in question.

#### *Insecurity*

7. The circumstances specified in this paragraph are that the delivery point concerned is insecure such that a postal packet delivered there may be easily abstracted by an unauthorised third party.

#### *Difficulty of access: lack of road access*

8. The circumstances specified in this paragraph are, in relation to any particular day, that:
- (a) the delivery point concerned is located in a place in the United Kingdom that is only accessible by water or air from the nearest delivery office on the mainland of Great Britain or the mainland of Northern Ireland; and
  - (b) a scheduled service to that place is either:
    - (i) not available on the day upon which the delivery is required; or
    - (ii) available upon the day upon which the delivery is required only at times which are not reasonably compatible with the universal service provider's operations; and
  - (c) deliveries are made to the delivery point concerned at least once a week, except where the circumstances described in paragraph 5 (*Health and safety*) exist throughout each working day in the week.

*Difficulty of access: private roads*

9. The circumstances specified in this paragraph are that:
- (a) the delivery point is located in a place to which the only access is by private road or track;
  - (b) the private road or track concerned is in a poor condition, as a consequence of which:
    - (i) it is unsuited to vehicles that are not specifically designed for off-road use; or
    - (ii) safe use by such vehicles requires them to travel at an average speed below 5 miles per hour; and
  - (c) reaching the delivery point takes 7.5 minutes or more from the nearer of
    - (i) the nearest public road; and
    - (ii) the nearest delivery point that is less than 7.5 minutes away from the nearest public road;
  - (d) for the purposes of sub-paragraph (c), the time taken to reach the relevant point is to be measured:
    - (i) if access using a vehicle not specifically designed for off-road use is impracticable, by foot at a walking pace that is safe in all the circumstances; or
    - (ii) otherwise, by vehicle travelling at the lesser of:
      - 1. a speed that is safe in all the circumstances; and
      - 2. 5 miles per hour.

*Difficulty of access: other*

10. The circumstances specified in this paragraph are that:
- (a) the delivery point is located in a place to which the only access is controlled by any person other than the universal service provider;
  - (b) that other person by their own act or by default prevents access or renders access extremely difficult;
  - (c) the act or default does not consist of either:
    - (i) failure to maintain a private road or track; or
    - (ii) choosing to locate the home or premises in the place concerned.

10. **The circumstances specified in this paragraph are that:**
- (a) the delivery point is located in a place to which the only access is controlled by any person other than the universal service provider;**
  - (b) access has been prevented or is extremely difficult;**
  - (c) the act or default does not consist of either:**
    - (i) failure to maintain a private road or track; or**
    - (ii) choosing to locate the home or premises in the place concerned.**

### *Customer request*

11. The circumstances specified in this paragraph are that all the occupiers of a home or premises at an address reasonably do not wish deliveries to be made, only to the extent that they do not wish deliveries to be made.
12. For the purposes of paragraph 11, the wishes of the occupiers of the premises must be evidenced by a request delivered to the universal service provider which, on its face, reasonably appears to have been made by or on behalf of all the occupiers of the address concerned.

### **Exceptions affecting users who may be particularly disadvantaged**

13. If exceptional circumstances have arisen in relation to a delivery point known by the universal service provider to be used by a person who for reasons of age, disability or ill-health may be particularly disadvantaged by the suspension of deliveries, the universal service provider shall:
  - (a) consider whether it would be appropriate and proportionate to make deliveries in spite of the exceptional circumstances;
  - (b) consider whether and what alternative delivery arrangements ought to be made; and
  - (c) retain written records of its thinking in relation to (a) and (b) for at least 6 months.
13. **If exceptional circumstances have arisen in relation to a delivery point known by the universal service provider to be used by a person who for reasons of age, disability or ill-health may be particularly disadvantaged by the suspension of deliveries, the universal service provider shall:**
  - (a) consider whether it would be appropriate and proportionate to make deliveries in spite of the exceptional circumstances;**
  - (b) consider whether and what alternative delivery arrangements ought to be made; and**
  - (c) retain written records of its thinking in relation to (a) and (b) for at least 6 months.**
  - (d) for the avoidance of doubt, nothing in (a) should be read as taking priority over the universal service provider's health and safety obligations**

### **Alternative delivery arrangements**

14. In every case in which pursuant to this Direction the universal service provider does not deliver to a particular delivery point, except if the exceptional circumstances concerned arise under paragraph 11 (Customer request), the universal service provider shall:
  - (a) make postal packets for that delivery point available for collection from the local delivery office, post office or other mutually agreed secure delivery point by an appropriate identified person free of charge; and

(b) offer to deliver any such postal packet free of charge to any alternative address ordinarily served by the same delivery office; and to effect such arrangements within one week of the individual's request offer.

14. In every case in which pursuant to this Direction the universal service provider does not deliver to a particular delivery point, except if the exceptional circumstances concerned arise under paragraph 11 (Customer request), the universal service provider shall, where it considers it appropriate and proportionate to do so, shall:

(a) make postal packets for that delivery point available for collection from the local delivery office, post office or other mutually agreed secure delivery point by an appropriate identified person free of charge; and

(b) offer to deliver any such postal packet free of charge to any alternative address ordinarily served by the same delivery office; and to effect such arrangements within one week of the individual's request. Agreement by the universal service provider to deliver to an alternative address in accordance with this paragraph does not amount to a requirement to offer the product called Redirection.

15. The universal service provider is not required to meet the obligation set out in paragraph 14(b) where, in relation to postal packets to a particular addressee or from a particular sender or class of sender, the provision of the service in relation to those postal packets would create a substantial risk of crime.

15. The universal service provider is not required to meet the obligation set out in paragraph 14(b) where, in relation to postal packets to a particular addressee or from a particular sender or class of sender, the provision of the service in relation to those postal packets would create a substantial risk of crime or give rise to a potential breach of any other legal obligation to which the universal service provider is subject.

### Notifications

16. The universal service provider shall as soon as is practicable after they have arisen, notify the existence of any exceptional circumstances other than those set out in paragraph 11 (*Customer request*) to, as relevant:

(a) the occupier of each home or premises affected; or

(b) each person with whom the affected approved delivery point is associated.

17. The notice shall contain the following information:

(a) The delivery point affected;

- (b) An explanation of why the universal service provider considers exceptional circumstances to exist;
  - (c) The effect the exceptional circumstances will have upon deliveries;
  - (d) The alternative delivery arrangements available and what the individual would need to do to take advantage of the option of delivery to an alternative address;
  - (e) A description of any remedial actions which would enable deliveries to resume;
  - (f) The anticipated date of resumption of deliveries, where known;
  - (g) The existence of the right to seek a review;
  - (h) How a request for a review should be made, which shall include postal, telephone and email methods of communication; and
  - (i) That if the person is dissatisfied with the outcome of the review it may be followed by a second stage review and ultimately an appeal to Ofcom.
18. The notice must be delivered in writing to the delivery point concerned if either:
- (a) the occurrence of the exceptional circumstances has been publicly announced or notified to the universal service provider more than one week in advance; or
  - (b) the exceptional circumstances concerned are those set out in paragraph 8 (*Difficulty of access: lack of road access*) or 9 (*Difficulty of access: private roads*).
19. If paragraph 18 does not apply, the notice may be given by:
- (a) delivering it in writing to the affected home or premises;
  - (b) giving it to the relevant individual; or
  - (c) affixing it to the nearest conspicuous point that is compatible with health and safety;
  - (d) emailing the relevant individual; or
  - (e) speaking to the relevant individual by telephone, as long as a detailed note is kept of the call.
20. Paragraph 16 does not apply in relation to exceptional circumstances that are ongoing as at the date of this Direction, as a result of which the universal service provider had already suspended deliveries to a delivery point, in reliance on any previous direction given by the Postal Services Commission or OFCOM, setting out exceptional circumstances for the purposes of deliveries.

21. In relation to delivery points for which exceptional circumstances have persisted for 24 months or more, the universal service provider must, no later than three months from 31 March 2014 and thereafter by the same day and month every two years, issue a reminder notice to, as relevant:
- (a) the occupier of the home or premises; or
  - (b) each person with whom any other affected approved delivery point is associated.
- [21] In relation to delivery points for which exceptional circumstances have persisted for 24 months or more, the universal service provider must within three months of each annual review from 31 March 2014, issue a reminder notice to, as relevant:
- (a) the occupier of the home or premises; or
  - (b) each person with whom any other affected approved delivery point is associated.
22. The reminder notice shall contain the information specified in paragraph 17(a), (b), (e), (g), (h) and (i) and shall be given in accordance with paragraphs 18 and 19.
23. The universal service provider must notify OFCOM within one week of any case in which exceptional circumstances have persisted for more than one working day and affect more than one delivery point, including:
- (a) The address of each affected delivery point;
  - (b) The reasons why the universal service provider considers exceptional circumstances to exist;
  - (c) The steps taken, if any, to resolve the issue; and
  - (d) The date upon which the universal service provider anticipates resuming deliveries to the affected delivery points.
- [23:] The universal service provider must notify OFCOM within one week of any new case arising in which exceptional circumstances have persisted for more than one working day and affect more than one delivery point, including:
- (a) The address of each affected delivery point;
  - (b) The reasons why the universal service provider considers exceptional circumstances to exist;
  - (c) The steps taken, if any, to resolve the issue; and
  - (d) The date upon which the universal service provider anticipates resuming deliveries to the affected delivery points.

## Reviews and appeals

24. The universal service provider shall complete a review of whether exceptional circumstances exist in the case of an excepted delivery point::
- (a) within one month of a request made by any person in accordance with the information specified in paragraph 17(h),
  - (b) in any event, no later than 12 months from the date of the later of the exceptional circumstances arising and the date of the last review.
24. **The universal service provider shall complete a review of whether exceptional circumstances exist in the case of an excepted delivery point:**
- (a) within one month of a request made by any person with sufficient interest in the excepted delivery point in accordance with the information specified in paragraph 17(h).**
  - (b) in any event, no later than 12 months from the date of the later of the exceptional circumstances arising and the date of the last review.**
25. The universal service provider shall notify the person who requested the review promptly in writing of:
- (a) the outcome of the review; and
  - (b) if the outcome is that exceptional circumstances exist in relation to the delivery point concerned, the person's right to seek a second stage review and how such a request should be made, which shall include postal, telephone and email methods of communication.
26. The universal service provider shall complete a second stage review of whether exceptional circumstances exist in the case of a delivery point within 2 months from receipt of a request made in accordance with paragraph 25(b).
27. The universal service provider shall notify the person who requested the second stage review promptly in writing of:
- (a) the outcome of the second stage review; and
  - (b) if the outcome is that exceptional circumstances exist in relation to the delivery point concerned, the person's right to appeal to OFCOM, giving such contact details as OFCOM shall provide to the universal service provider for the purposes of this paragraph from time to time.
- [28] Subsequent to the review process set out in paragraphs [24] to [27] should an appeal be brought in front of OFCOM then the following process will apply:**
- a) OFCOM shall provide written notice to the universal service provider setting out the grounds of the appeal;**

- b) the universal service provider shall have an opportunity to make written representations responding to the appeal;
- c) OFCOM shall, having had due regard to the evidence in front of it and, in particular, any health and safety concerns raised by the universal service provider issue a provisional decision;
- d) The universal service provider and the person who requested the appeal shall have the opportunity to make representations in relation to the decision;
- e) In circumstances where the universal service provider has made representations that the exceptional circumstance is necessary to protect the health and safety of the universal service provider's employees, or others affected by its operations, OFCOM may require the universal service provider to carry out a further health and safety assessment, such assessment to be carried out by a suitably qualified professional.
- f) In the circumstance that a health and safety assessment (as described in (e) above) finds there is a risk to the health and safety of the universal service provider's employees, or others affected by its operations, OFCOM may not require deliveries to be made to the delivery point concerned but may request that the universal service provider reasonable consider alternatives to a collection in the location concerned.
- g) OFCOM's final decision shall be issued having given due regard to all the representations made.

28. Ofcom's decision as to whether exceptional circumstances have arisen shall be binding.

[29.] Subject to the process set out in paragraph 28, Ofcom's final decision as to whether exceptional circumstances have arisen shall be binding.

29. The universal service provider shall at its own expense make facilities available to ensure that no person is disadvantaged by reason of age, disability, ill health or because English is not the person's first language, in relation to the making of a review request, the conduct of any review and the conduct of any second stage review.

[30.] The universal service provider shall at its own reasonable expense make facilities available to ensure that no person is materially disadvantaged by reason of age, disability, ill health or because English is not the person's first language, in relation to the making of a review request, the conduct of any review or the conduct of any second stage review.

## Reporting requirements

30. The universal service provider shall within three months from 31 March each year, provide a report to OFCOM and Consumer Futures on each delivery point in relation to which exceptional circumstances have persisted for 12 months or more pursuant to a direction under DUSP 1.3.2. The report shall include the following in relation to each delivery point:
  - (a) the address of the delivery point;
  - (b) the postcode area;
  - (c) applicable exception under this Direction;
  - (d) where the relevant exceptional circumstances relate only to particular days of the week, the days upon which deliveries are made;
  - (e) the date upon which the relevant exception arose under this or any previous direction, except if the date of both precedes and was unknown at the date of this Direction; and
  - (f) anticipated date upon which deliveries will resume, where known.
31. No later than three months from 31 March each year, the universal service provider shall publish the report on its website, excluding the address of the delivery point.
32. For the purposes of paragraph 31, if a single delivery point is affected by both health and safety and difficulty of access exceptional circumstances, it shall be reported in both relevant categories and the universal service provider shall include a note identifying the delivery point concerned.