



Citizens Advice's response to Ofcom's consultation on 'A Review of Consumer Complaints Procedures'

March 2010

Introduction

The Citizens Advice Bureaux (CAB) network is the largest independent network of free advice centres in Europe, providing advice from over 3,200 outlets throughout Wales, England and Northern Ireland.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone, about their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. The service aims:

- to provide the advice people need for the problems they face; and,
- to improve the policies and practices that affect people's lives.

In 2008-2009 the CAB service in England and Wales dealt with 6 million problems in total. Of these, 28,500 problems related to communications, specifically landline phones, mobile phones, cable and satellite TV, and internet service and broadband. Figures for the first three quarters of 2009-10 (April – December 2009) show that bureaux dealt with just below 23,000 communication problems.

Breaking the figures for 2008-9 down further reveals that:

- 21 per cent of the problems relating to landline phones were about complaints and redress. This equates to almost 3,000 problems and meant that this category was the second largest reported, trailing only those problems relating to costs and billing; and
- 22 per cent of the problems about mobile phones were about complaints and redress. This category contained 2,100 problems which made it the largest single category for mobile phones.

In addition, bureaux dealt with over 60,000 problems concerned with telecoms debt (which includes both landline and mobiles). Of these just over 1,000 problems related to complaints.

Citizens Advice is pleased to have the opportunity to respond to Ofcom's proposals about complaint handling procedures and the promotion of ADR schemes in the communications sector. We responded to Ofcom's previous consultation on this subject in October 2008 and are delighted that Ofcom has returned to this area with the intention of raising standards. Based on the evidence reported to us by Citizens Advice Bureaux, we consider that there is an overriding imperative to improve the customer experience. At present, too many communications providers do not treat customers' complaints seriously, failing to pay sufficient attention to providing speedy and effective resolution of problems experienced. We think that Ofcom's proposals should address the current deficiencies and enable customers to have more knowledge of, and confidence in, how their complaint should be handled.

In general, we consider that Ofcom's proposals strike the appropriate balance between seeking to raise overall complaint handling standards and not imposing disproportionate costs on communications providers. More specifically, we note that those communications providers already providing reasonable levels of complaint handling standards should not incur substantial costs. As such, these proposals represent a welcome, though somewhat overdue, levelling-up of standards in the communications industry. Our comments on specific questions are provided below.

Responses to specific questions

Question 1: Do you agree with our definition of a ‘complaint’? 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.’

Yes. We agree that a common definition is required and also that the definition proposed is the most appropriate as it builds on a well-respected benchmark and is wide enough to capture most examples of consumer dissatisfaction.

Adoption of a common definition of complaint is essential in order to allow meaningful comparisons to be made between how CPs deal with complaints. However, adoption of a common definition is merely the first hurdle to overcome in constructing a framework to record complaints. To ensure that providers apply a common definition in a consistent manner, and that any comparisons are therefore meaningful, there is a need to work closely with providers. We do not underestimate the difficulty of this task and note that although the energy industry adopted a common definition of a complaint in October 2008 we understand that there remain difficulties in how this is interpreted by suppliers (e.g. over when a complaint may be recorded as being resolved). Ofcom must be alert to the difficulties in this area since failure to do so may lead to perverse incentives on providers, for example to close down complaints prematurely in order to lower average complaint resolution times.

Getting a common definition of a complaint that is consistently applied by communications providers is clearly essential if such figures are to form the basis of any comparative information that may be published. While we are very supportive of Ofcom’s efforts to produce information about levels of customer service, including complaint handling, to enable customers to make informed decisions about their choice of supplier, clearly this must be robust in order to be of value. The way in which the common definition of a complaint is interpreted and implemented therefore clearly has implications for the availability of comparative information – this is a topic that we cover in more detail in our answer to Question 13.

Question 2: Do you agree that the current approach to complaints handling in the telecommunications market is of sufficient concern to justify a degree of regulatory intervention (leaving aside any concern as to the nature of the intervention)?

We recognize that satisfaction with communications services is high for the majority of consumers. This is testament to the quality, innovation and service that many people experience from the communications sector. However things do go wrong for consumers, with Ofcom research suggesting that they are more likely to make a complaint in the telecommunications industry than in similar industries. And, importantly, when problems are experienced there are far too many instances where communications providers fail to deal appropriately with the complaint. We therefore agree wholeheartedly that the current approach to complaints handling in the telecommunications market is of sufficient concern to justify regulatory intervention.

In February 2008 Citizens Advice published an evidence briefing, *Are you being served? CAB evidence on contacting utilities companies*, which covers one important aspect of the complaint handling process – the handling of customer calls and complaints. Since little appears to have changed in the way in which communications providers handle complaints, much of the report still holds true for the communications sector. The report outlined two fundamental and related reasons

why utility company contact centres have, in general, failed to respond to the needs of customers in this area, prompting high levels of dissatisfaction:

1. There is a glaring lack of accessible information available to consumers about comparative levels of service from utility companies' contact centres. This means that incentives to improve performance are weak and customers are forced to make decisions about suppliers based on price alone.
2. There are no minimum standards for utility companies in setting levels of customer service, including how customer contacts are handled. In the absence of sufficient competitive pressures, these could act as an effective protection for consumers.

These apply equally to complaint handling more generally, but the upshot is the same - that consumers are forced to make decisions based solely on price.

In our view, the evidence presented by Ofcom in its consultation document presents a damning indictment of the way in which CPs currently handle complaints, painting a compelling picture of the need for intervention to correct current failings, pointing out that:

- consumers are more likely to make a complaint in the telecommunications industry than in similar industries (para 4.23);
- the communications industry has a poor record in dealing with complaints promptly (para 4.19);
- customers with complaints are very dissatisfied with the way their complaints are handled (para 4.32);
- such poor performance causes consumers a great deal of stress, anger and worry, as well as imposing financial costs and forcing consumers to spend considerable time attempting to resolve problems.

These experiences are mirrored in many of the individual cases reported by bureaux about the problems experienced by CAB clients in making complaints to their communications provider and in gaining a satisfactory outcome. The following cases represent only a small fraction of those reported, and involve a number of overlapping problems, including: difficulty getting CP to acknowledge complaint; time, money and effort involved in lodging a complaint; problems accessing information about how to make a complaint; failure of CP to record complaints and deliver what was agreed. We would be happy to share further cases with Ofcom if this would be helpful.

A CAB in Suffolk reported that their client agreed with her mobile phone provider to transfer a mobile phone contract into a friend's name. She received a letter dated 24/9/09 confirming that the account would be transferred on 12 October. However her CP continued to bill the client and are now chasing her for £111. The client has phoned the CP several times but they say they have no record of the transfer and have called into question whether client ever received a letter from them confirming the transfer. The client wanted to write a letter of complaint but there is no mention of the CP's complaints procedure on the bills themselves or on the CP's website. Eventually, after great difficulty, the CAB adviser found the Code of Practice which includes a section on how to complain. The client's frustrations with her CP were exacerbated by the fact that it was not clear how to make a formal complaint, especially after her complaints made by telephone had not been taken seriously or acted upon.

A CAB in Hertfordshire reported that their client has been a customer of her communications provider for some time, and they provide him with phone, TV and broadband services. One month prior to moving house in July 2009, the client informed his CP that he wished them to continue to provide him with their services after his move. On the date of the client's move a new satellite dish was fitted but no phone service was provided. The client's disabled wife had

recently come out of hospital and they were reliant on the phone for accessing medical services. They also needed a working phone line in order for their emergency system in their home to work. The client therefore made repeated attempts to speak to someone at his provider over the next few days but was passed from department to department without being given any help. The client (who relied on benefit income) spent over £30 on his mobile phone trying to speak to the CP and resolve the problem. Finally, the client came to his local CAB for help. But when the CAB adviser tried to speak to the provider on behalf of the client, the provider told them that they would only deal with the CAB in writing.

A CAB in Gloucestershire reported a case in which their client, a 71 year old man, had attempted to end his sister's mobile phone agreement. He had been granted power of attorney as his sister is in a nursing home and unable to look after her affairs. The client's sister had a mobile phone agreement, which he cancelled in January 2009. The client visited the communications provider's local shop and, with power of attorney, cleared the outstanding debt. Despite this, the mobile phone company continued to write to the client's sister at her old address claiming ever rising amounts are owed, and threatening to refer the matter to debt collectors. The client had written numerous letters to the mobile phone company, including a long summary of the entire episode, but the company ignored these. The client was extremely annoyed at the company's failure to deal with the matter properly, while the worry caused by this had exacerbated the client's health problems.

Question 3: Do you agree with the principle that CPs should be required to comply with a single Ofcom Approved Complaints Code of Practice?

As we report above, complaints to CPs account for a large proportion of the communications problems that clients come to their CAB for assistance with. In 2008-9, 21 per cent of the problems relating to landline phones were about complaints and redress. This equates to almost 3,000 problems and meant that this category was the second largest reported, trailing only those problems relating to costs and billing. In addition, 22 per cent of the problems about mobile phones were about complaints and redress. This category contained 2,100 problems which made it the largest single category for mobile phones.

We think that there is great merit in moving to a framework in which CPs are required to comply with a single Ofcom Approved Complaints Code of Practice. Rather than each CP having their own Code of Practice for Complaints, a single Ofcom-approved Code would provide a degree of consistency in what can be expected of CPs. This would be particularly helpful for consumers and also for their advisers, and should also help to provide consumers with basic levels of service from their provider when they are trying to resolve difficulties.

Currently, advisers and clients may be told by a CP that they have no complaints procedures or may experience great difficulty in discovering where a Code of Practice is located. While requiring compliance with a single Ofcom Approved Code may not address this problem directly we consider that there would be great benefit in raising general levels of awareness among consumers of what they can expect from their CP in dealing with their complaint.

A CAB in Leicestershire reported a case in which their client, who is 75 years old, has diabetes and so needs a phone in case of emergencies, moved house on 30 October. It took until 3 December for an engineer to call to connect her phone and he left it unable to call out. Since then the client's son has spent a huge amount of time and money trying to get information from the client's phone provider, typically being passed from person to person and being placed in a long queue each time. Despite spending £300 on mobile phone bills trying to sort out the problem, the client's son had not managed to resolve the problem. Calling on client's

behalf, the CAB adviser had a similar experience, speaking to four different people and being given different explanations of the problem. On being asked, each employee of the phone provider said that they had no complaints procedure, nor was there mention of one on the provider's website or telephone bills.

A CAB in Hampshire reported that their client, a 71 year old lady, was having difficulties cancelling her mobile broadband contract. The mobile broadband had not worked for more than four months yet the client was still receiving demands and debt collection letters and phone calls. Poor communications from the provider had been the main cause of these difficulties, both on the phone and by written correspondence, but the fact that the company's complaints procedure could be accessed had made the situation even more distressing.

We do not think that addressing the problems with the current system through Option 2 (retaining requirement for providers to submit their Code for approval but issuing guidance on what this should contain) represents a viable alternative. In our opinion this would be time-consuming and resource-intensive for Ofcom, and we do not think that it would provide any additional benefits over and above those that would be engendered through establishing a single Ofcom Code of Practice.

Question 4: Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are transparent?

We agree that the processes and procedures that CPs have in place for resolving complaints should be clearly visible to a complainant. In addition, we support the proposal that complaints information should be provided in a standalone document. If this is not the case we would have concerns that information about complaints could be 'buried' in a lengthy document.

We also agree that the CP's own Customer Complaints Code should be "short" and "easy to understand". However, what is easy to understand may vary from one customer to another. There may therefore be merit in being more explicit in defining what is meant by "easy to understand" or in encouraging CPs to ensure that their Codes are intelligible and written in plain English.

Question 5: Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are accessible?

Again, we agree with Ofcom's intention in this area to ensure that those consumers wishing to lodge a complaint are able to do so in a straightforward manner at minimal cost. Cases reported by bureaux reveal some of the problems that can currently be experienced by customers in accessing CPs' complaint handling services.

A CAB In Hampshire reported that their client, who is in his 80s and hard of hearing, had tried to contact his phone supplier to query a bill about an amount of £10 that he had been charged. The client had to call the customer helpline several times in order to sort out the matter, and in doing so he incurred charges of over £50. The CAB adviser noted that the company in question appeared to be profiting from their customer's problems.

A CAB in North London's client had a problem with a non-functioning mobile phone. Phoning the mobile phone company from a phone that was not on their network, the client was forced to call customer services via an 087 number incurring significant costs. In addition, the client was kept waiting for long periods, while his problems were not resolved, necessitating further calls. The client complained that the mobile phone company's complaints process was difficult to find on their website, and when he eventually found it, no postal address was provided.

Whilst we agree with Ofcom's overall intention in this sphere, we think some amendments are necessary to ensure that CPs' Customer Complaints Codes are truly accessible. Specifically, we think that the accessibility obligations should be amended to ensure that it is made clear that a physical copy of the Customer Complaints Code should be provided 'free of charge'. More fundamentally, we do not think that the options for ensuring that customers are provided with low-cost options for lodging a complaint are sufficient. Ofcom proposes that CPs must have at least two of the following three low cost options available for consumers: a freephone number or a phone number charged at a geographical call rate; a UK postal address; or an e-mail address or internet web page form. Under these proposals it would be acceptable for a CP to offer a postal address and e-mail address and meet its obligations. Yet how accessible would this combination of options be for someone with literacy difficulties or someone who finds it difficult to write English?

We think that a telephone number should be required, and that this should be supplemented by both a UK postal address and an e-mail address or internet web page.

Ofcom proposes that one of the options that CPs can choose to offer is a free-phone number (0800) or a phone number charged at the equivalent of a geographical call rate. While we appreciate the effort to minimize costs incurred in calling CPs to lodge a complaint, we do not think that this proposal will work sufficiently well for people who may have to call their CP on an 0800 number from their mobile phone since this can be extremely expensive. One way to address this may be to mandate CPs to offer a free-phone number **and** a phone number charged at the equivalent of a geographic call rate **regardless of whether the call is made from a landline or mobile.**

In addition, we would recommend that consideration must also be given to ensure that automated systems set up by CPs to handle calls do not deter or prevent customers from making a complaint, as can currently occur:

A Tyne & Wear CAB reported that their client, who is on a low income and has health problems, recently switched to a monthly mobile contract from a Pay as You Go mobile. He was told that the remaining £18 credit would be transferred in this switch but this was not done. The client tried to resolve the matter himself unsuccessfully and came to the bureau for assistance. The adviser was not able to speak to anyone at the mobile phone company as the automated system would only put you through if you enter a valid mobile phone number. Since the client's contract had been terminated by this stage his number was no longer valid. It was not possible to find a general number on the mobile phone company's website and when the adviser called the new contracts line, they just gave the same customer service number listed on the website which needs a valid telephone number to access. The CAB adviser then decided to write to the provider and had some difficulty locating a postal address.

A CAB in Hampshire reported that their client needed to speak to her phone company after getting bills despite cancelling her order. However, she had experienced difficulty getting through to the company as when she called them she was greeted with an automated answering service which did not include 'complaint' as an option. None of the other options offered was clearly the correct one. In addition, many of the options required the caller's telephone number but the client found that the system rejected his number as it was registered with another provider. Entering 'Complaint' on the phone company's website led only to the same 'phone number and the same options scheme.

Question 6: Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are effective?

We understand Ofcom's reticence about prescribing to CPs how to run their complaint handling operations. This is rightly a matter for the companies to determine, and should give rise to a competitive advantage to those who organize their operations more efficiently.

However, in seeking to set the proposed effective obligations in such a way that they do not impinge on what is for CPs to determine, we think that much of their potential value has been lost. For instance, the effectiveness obligations state "a CP must ensure the fair and timely resolution of complaints", yet a CP and a consumer may have vastly different interpretations of what is both 'fair' and 'timely'. Similarly, who is to determine what is a "reasonable" escalation process?

We therefore do not think that the current proposals strike the appropriate balance between prescription and flexibility. We suggest that Ofcom consider including some further information about what it considers to be "timely" or "reasonable". If concerns remain about imposing overly prescriptive requirements these could take the form of minimum standards which could function as a 'backstop'. This approach would appear to be more acceptable to Ofcom since it is in keeping with its current proposals around complaint handling more generally.

Question 7: Do you agree that (depending on the specific measure) Ofcom should take steps to improve awareness of ADR?

Yes. We think that levels of consumer awareness of ADR are at an unacceptably low level and that action must be taken to address this. We are staggered that although there is a regulatory requirement for CPs to belong to an ADR scheme, there is no correlating obligation on CPs to notify individual consumers about their right to go to ADR. In our opinion this needs correcting as a matter of urgency. Cases reported by bureaux reveal how under the existing arrangements complaints can drag on for months or even years, with no mention ever made by the CP of the customer's right to go to ADR.

A CAB in Worcestershire helped a Polish client who was having difficulty cancelling his broadband contract. The client had written to his broadband provider on 18 January 2009 giving one month's notice of cancellation of his Broadband contract but his letter was unanswered. Despite a follow-up letter the client received three separate letters from a debt collection company demanding payment of £327 which the broadband provider had previously agreed was not owed. In addition, the broadband provider's inability to deal effectively with this matter had meant that the client's credit rating had been adversely impacted and he had been refused credit when attempting to purchase a television. Some six months later the matter still remains unresolved.

A CAB in Suffolk reported a case in which their client had informed her communications provider that she did not want broadband as part of her communications package when she signed up to a new deal. Two days later the client's daughter checked the contract that she had signed, and spotted that in fact she had signed up to broadband. The client immediately phoned the CP and they agreed to alter the contract. However, it subsequently transpired that this did not occur and the client has been charged for broadband at £57 a quarter. From June 2008 onwards, she repeatedly attempted to get the charges withdrawn both by telephoning and writing to the provider, but without success, and she was still being charged 21 months later!

As well as improving awareness of the right to go to ADR, there is also a need to ensure that consumers are provided with an effective service when they do take a case to ADR and that they are

not faced with further obstacles or recriminations from their CP when they do so, as appears to have occurred in the following cases:.

A CAB in North Yorkshire reported that their client was owed money by his phone provider. Having used all the correct complaint channels he took the matter to the provider's ADR scheme. This found in favour of the client but the provider still did not paid the money owed. The client had been advised by the ADR scheme and Trading Standards that he will need to make a claim in County Court to get his money back.

A CAB in Gloucestershire reported that their client received a special 'lifetime line rental price' for as long as he stayed with the provider after a complaint was made. However, when the client called to see what had happened to this special offer, he was told that no-one within the provider had the authority to offer this kind of deal, and they had withdrawn the offer. The client then took his case to the provider's ADR scheme who decided in favour of the client. Following this, the provider decided to terminate the client's contract, not even providing him with 30 days notice.

In the latter case, it would appear as though the customer was punished for taking their case to ADR. Clearly such practices must be outlawed to make sure that customers are not reluctant to take their case to ADR for fear of later recriminations or punishment. Such activities are reminiscent of the actions of some banks following their customers request for repayment of the bank charges they had paid. In the financial services sector the regulator moved swiftly to ensure that firms should not take this course of action. We would expect Ofcom to take similarly decisive action if this is found to be a systemic problem.

Question 8: Do you agree with our proposals to improve awareness of ADR by requiring:

a) Relevant text about ADR to be included on bills (paper and electronic);

b) CPs to ensure consumers whose complaint has not been resolved within eight weeks of first being made to a front-line agent receive written notification about their right to go to ADR;

c) CPs to ensure front-line staff are fully informed of the right of consumers to use ADR, as well as the role of Ofcom in investigating compliance with General Conditions; and

d) On request from a complainant, CPs must issue a deadlock letter referring a matter to ADR unless the subject-matter of the complaint is outside the jurisdiction of the ADR scheme or the CP has genuine and reasonable grounds for considering the matter will be resolved in a timely manner, and subsequently takes active steps to attempt to resolve the complaint.

In response to Ofcom's previous consultation document on this subject, we argued for Ofcom to mandate more widespread publicity for the ADR schemes, perhaps in the form of information on the back of bills or in promotional literature. We are therefore very pleased that this option (option 2) is a key part of the package of proposals that Ofcom is now putting forward. We think that there is great merit in publicising the existence of ADR schemes more generally since they can help to instill or boost consumer confidence in the industry and empower customers to challenge their CP where they are unhappy with the way they are being treated. In the absence of such knowledge there is no knowing how many consumers decide not to even make a complaint to their CP because they consider they may not get a fair hearing and are unaware of their right to take the matter to an ADR scheme should this be the case.

The main argument against more general publicity for ADR schemes appears to be that customers may resort to them prematurely and indeed previously Otelo reported that *"the majority of contacts to the Service relate to issues which cannot be investigated. Most commonly this is because the*

*complainant has contacted Otelo too early in the complaints process and has not allowed the company adequate opportunity to resolve the complaint.*¹ We consider the provision of information to consumers about the complaints process in general to be one of the principal duties of the ADR scheme and therefore would view such figures as positive rather than something which should be reduced.

We also think that it is right that CPs must ensure consumers whose complaint has not been resolved within eight weeks of first being made to a front-line agent receive written notification about their right to go to ADR. Since consumers have the right to go to ADR after eight weeks we think that they must, at the very least, be made aware of this right as they become able to make use of it.

We do think that it is very important for Ofcom to raise both general awareness (through putting information on bills and seeking to exploit media opportunities) and also raise awareness of ADR among those who have an outstanding complaint and are able to take this to ADR. We view these two proposals as part of a complementary package and would assert that they must be introduced together.

We have a number of additional comments to make in this area:

- we would prefer more precise clarification of how soon a CP must inform a customer of their right to go to ADR. Currently Ofcom propose that an eligible complaint should receive “prompt Written Notification of their right to go to ADR” and that this means “as soon as practical after the eight weeks has passed”. We think this should be more tightly defined, perhaps with reference to the terminology used in the energy sector which states that providers should inform consumers of their right to go to ADR within one working day of them becoming eligible.
- In terms of unnecessary ADR notifications being issued to consumers, we think the current clarification allows CPs far too much latitude in deciding whether a matter is resolved. Currently Ofcom states “CPs would not need to send the notification if it is reasonable to consider the matter resolved to the satisfaction of the customer”. We understand that in the energy sector there is often a great divergence over when a customer and a provider considers a complaint to be resolved. We presume that this will also pertain to the communications sector and we therefore propose that the wording is changed so that “CPs would not need to send the notification if confirmation is received from the customer that the matter is resolved to their satisfaction”.
- We think that there would be considerable merit in Ofcom thinking more creatively about requiring CPs to inform complainants after 10 days. In the consultation document Ofcom acknowledges that customers have a strong desire to receive information early in the complaints process (paragraph 6.60) yet it dismisses this as an option due to the costs that this might impose on CPs and the fact that people may not read the Code at this stage. We think that there may be merit in finding a middle way through this, by compelling CPs to contact customers after 10 days to inform them that:
 - their complaint is currently being investigated;
 - they will be in touch soon with a view to resolving the complaint to the customer’s satisfaction; but, in the meantime
 - if they would like further information about how their complaint will be handled and their rights then they should view the Customer Complaints Code available on their CP’s website or by requesting a physical copy.
- We are somewhat perplexed as to how Ofcom envisage proposal (d) (which states that on request from a complainant, CPs must issue a deadlock letter referring a matter to ADR subject to certain exceptions) will work in practice. While we can recognize how this could potentially be

¹ *Ombudsman’s report 2008, Otelo, p.26*

helpful in assuring a customer that their complaint is being taken seriously, and would be particularly useful in urgent cases, we are unsure of how customers will be made aware of this right. It may be that this proposal would therefore function more effectively if consumers are also provided with information about the complaints process earlier in the process, as we suggest above. More broadly, cases reported by bureaux suggest that CPs can currently ignore requests for a deadlock letter so this difficulty would also need to be overcome.

A CAB in South East Wales reported that their client's telephone was stolen. The matter was reported to the police but the mobile phone provider did not disable it. Subsequently the client was billed for calls made to Nigeria from the phone. Attempts by the client to resolve the matter had been met with silence on the part of the mobile phone provider. Eventually, the client was contacted by a solicitor acting on behalf of the mobile phone company who stated that the provider had looked into the dispute and found the complaint was not justified. The client then contacted the mobile phone company's ADR scheme but they stated that they could not help as the client had not received a deadlock letter. The client therefore contacted the mobile phone company to request a deadlock letter but received no reply. The client then attempted to gain a copy of the company's complaints procedure but was again confronted with no response from the company.

Question 9: Leaving aside concerns about the merits of the proposal, do you agree that CPs should include the following wording (or Ofcom-approved equivalent text) on paper and electronic bills?

If you are a residential consumer or part of a business with fewer than ten employees and we have been unable to resolve your complaint within eight weeks, you have the right to ask [Otelco or CISAS] (an alternative dispute resolution scheme) to investigate your complaint at no cost. Their website is [insert web address], you can call them on [insert phone number], or write to them at [insert postal address].

We think that the proposed wording should be amended to make clear the fact that the ADR scheme is independent and that its decision is binding on the communications provider but not the consumer who remains free to take their case to court. This would be more in keeping with the ADR signposting obligations in the energy sector (as detailed at Annex 6, paragraph A6.4).

We also suggest that it may be helpful if the proposed text could also include reference to the assistance that can be provided to vulnerable groups – in terms of those with language difficulties or for whom English is not a first language, those with disabilities, and more general assistance in putting a 'case' together.

Question 10: Do you agree with our proposed record keeping requirement on CPs? A CP must retain written records collected through the complaint handling process for a period of at least six months, including written correspondence and notes on its Customer Record Management systems. Where call recordings are available, these need to be retained for at least three months.

We think that CPs should be required to log complaints made to them. We are startled to learn that there are currently no specific record keeping obligations for complaints in the General Conditions and would look to Ofcom to correct this oversight. In our view, logging of complaints is an essential element in improving complaint handling services. In the absence of such recording of complaints customers can become understandably irate at having to repeatedly explain details of their complaint to a succession of different customer service advisers:

A CAB in West Sussex reported that their client purchased a mobile handset phone on a two year contract. After three weeks the client found that his handset was faulty. He visited the mobile company's local shop 18 times and received a replacement phone on six separate occasions. The client had written several complaint letters to the mobile phone company's Head Office but had not received a satisfactory response. Despite repeated attempts to resolve the matter, when the CAB adviser called the company, they were informed by 'Customer Services' that the only record they held was that of the client's phone being sent for repair on one occasion and they had no record of any complaint letters. This was in direct contradiction to what another employee had said when he had stated that he could see the client's letter of complaint on the company's system.

We are disappointed that Ofcom proposes only that CPs must retain written records collected through the complaint handling process for a period of at least six months, and where call recordings are available, these need to be retained for at least three months.

Ofcom acknowledges that under this option "there is a risk that some CPs will not record any information, which could undermine Ofcom's ability to investigate potential breaches of the Ofcom Code". We would go further and suggest that this proposal could actually incentivise CPs to fail to record complaints, while penalizing those CPs that have attempted to provide better levels of complaint handling through investing in more robust record-keeping arrangements. Despite the fact that this timid approach threatens to undermine its ability to enforce against the Code, Ofcom states that it is "worthwhile" to take this incremental approach since stronger record-keeping requirements can be introduced at a later date if necessary. In our opinion Ofcom needs to take a fresh look at this area. We would suggest that rather than depriving itself of the tools necessary to monitor compliance with the new rules, Ofcom should introduce stricter record-keeping rules from the outset which could – should the industry prove itself to be complying with the requirements – be loosened. It may be that in this way Ofcom could limit this greater flexibility to those CPs that had demonstrated good behaviour, hard-wiring a strong incentive for CPs to take complaints seriously into their processes and procedures.

Question 11: Do you have any views on the Ofcom Code and accompanying guidance (Annex 5)? Do you consider we have adequately captured the policy intentions we have outlined in the consultation document?

We do not have any specific comments on the draft Code and accompanying guidance, although we would point out that a number of comments made above relate to aspects of the Code.

Question 12: Do you agree that it is reasonable to require CPs to implement:

- Clauses 1 – 3 of the Ofcom Code (transparency, accessibility and effectiveness of complaints procedures) six months after the publication of any Statement; and***
- Clauses 4 – 5 of the Ofcom Code (facilitating access to ADR and record keeping obligations) 12 months after the publication of any Statement.***

In October 2008 we supported Ofcom's suggestion that its proposals in relation to complaint handling and ADR should be implemented within three months of the publication of the Statement. We supported this proposal as "we would not wish to see these proposals, many of which are essential to improve the customer experience in the communication sector, delayed".

Almost 18 months have passed since we submitted that response. We continue to believe that such changes should be implemented at the earliest possible date. Nevertheless, if a lengthy lead-in time must be provided in order to secure industry agreement to the implementation of the measures then

we think that it is a price worth paying. However, there must be no further delays or acceding to special pleading from CPs once this timetable is agreed. Since communications providers would have a significant amount of time to implement the changes we would assert that Ofcom should be able to enforce against the provisions from when they are first introduced.

Our other concern is with the staggered implementation dates. We question whether there might need to be more of a coordinated approach to the introduction of the requirements since they can be viewed as a package of measures. In this sense, a case could be made for the record-keeping obligations to be introduced in conjunction with requirements on the transparency, accessibility and effectiveness of complaint handling procedures.

Question 13: Do you have any views on whether (and how) Ofcom should look to improve the availability of comparative information on how effective providers are at handling complaints?

In our answer to Question 1 we highlight some of the practical difficulties that must be overcome in order for the publication of comparative data to be meaningful and of use to consumers. What is not in dispute is whether such data – or, alternatively, comparative information derived in another way, for example through a statistically significant sampling exercise – should be provided. We believe vehemently that this is not just desirable but absolutely essential if Ofcom wishes to send the right signals to industry about how seriously it takes such matters. We are therefore pleased that Ofcom will be commissioning work to better understand what consumers need to know about the quality of service of providers.