

# **Protecting the Integrity of Mail – A Code of Practice**

A decision document

August 2005

## SUMMARY

- S1 Postal services play a vital role in modern commercial and social life, providing communications between individuals, businesses, organisations and government. In 2003, over 20bn postal items were mailed by customers, generating revenues for Royal Mail of around £6bn.
- S2 In the discharge of its duties under the Postal Services Act 2000 (“the Act”), Postcomm’s vision for the market is “a range of reliable, innovative and efficient postal services, including the universal postal service, valued by customers, and delivered through a competitive market”. In March 2005, Postcomm published a consultation document seeking views on the introduction of an industry Code of Practice for Mail Integrity (“the Code”) in time for the full opening of the postal market on 1 January 2006. This covered requirements for licensees which would ensure, as far as is possible, that items in the post are handled safely and securely.
- S3 Postcomm’s view is that measures put in place by operators to ensure the integrity of the mail are key to consumer confidence in the market. Customers need to have assurance that mail they entrust to any licensee will arrive at its destination and not be interfered with, lost or stolen. The Code aims to provide assurance to customers that in selecting any licensee to carry their mail, that licensee will be working to common and enforceable standards for mail integrity which are public. It should also help to reduce the incidence of interference with mail.
- S4 This document explains the basis of the decision made by Postcomm on the terms of that Code. The Code sets the minimum standards which a licensee must meet whilst, in recognition of licensees’ different circumstances, affording them some flexibility as to the procedures they put in place to meet those standards. Appropriate measures will vary depending on the nature and scale of operations of individual licensees. Postcomm’s intention is not to tell licensees how to run their businesses, but rather to set some minimum standards. Postcomm will monitor compliance with the Code.
- S5 Postcomm has given careful consideration to the representations received on its March consultation document and is grateful for the responses received. The responses have been particularly helpful in highlighting where Postcomm’s proposals needed further explanation or where alterations to the draft Code were required.
- S6 Postcomm has come to the view that it should introduce an industry Code which applies to all licensees, including Royal Mail, and which covers all mail carried pursuant to their licences. Postcomm has concluded that the Code should be part of the licence and not a separate document. The consultation confirmed that the consultation draft of the proposed Code

covered all the key issues, but some changes have been made to the wording of the Code to address points raised by respondents.

***Next steps***

- S7 This document sets out Postcomm's decision to introduce a licence-based Mail Integrity Code. Postcomm will consult informally with the licensees on the proposed change to existing licence in order to establish whether consent to the changes will be forthcoming. Postcomm aims to be in a position in early September to either propose the modification for a 28 day consultation period or to consider whether to refer the proposed licence modification should be referred to the Competition Commission if consent is not forthcoming from all licensees (in accordance with the modification process set out in the Postal Services Act 2000).
- S8 Postcomm proposes that the Code will take effect from 1 January 2006. The introduction of this Code, together with the Common Operational Procedures Code and new licensing framework, paves the way for full market opening.
- S9 If you would like to discuss any aspect of this document please contact Stephen Green by telephone (020 7593 2161) or email [stephen.green@psc.gov.uk](mailto:stephen.green@psc.gov.uk) or Ros Poulson by telephone by telephone (020 7593 2119) or email [ros.poulson@psc.gov.uk](mailto:ros.poulson@psc.gov.uk).

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## 1. INTRODUCTION

### ***What is Postcomm?***

1.1. The Postal Services Act 2000 (“the Act”) established the Postal Services Commission (“Postcomm”) as the regulatory body for the postal services industry in the United Kingdom. Postcomm’s business plan, which can be found on its website [www.psc.gov.uk](http://www.psc.gov.uk), gives details of its duties, functions, objectives and work programme.

### ***Postcomm’s statutory duties***

- 1.2. Postcomm’s universal service duty is to act in a manner which it considers is best calculated to ensure the provision of a “universal postal service”. The universal postal service consists of the delivery and collection of mail (not exceeding 20 kilograms in weight) at least once every working day and the provision of a registered postal service, all at affordable prices that are geographically uniform throughout the UK.
- 1.3. Subject to this, Postcomm is also charged with furthering the interests of users of postal services, wherever appropriate by promoting effective competition between postal operators. In doing so, Postcomm must have regard to the interests of those who are disabled or chronically sick, are of pensionable age, are on low incomes or who reside in rural areas.
- 1.4. Subject to both the duties above, Postcomm has a further duty to exercise its functions in a manner which it considers is best calculated to promote efficiency and economy on the part of postal operators.
- 1.5. Finally, in performing all its functions, Postcomm must have regard to the need to ensure that licensees are able to finance the activities authorised or required by their licences.
- 1.6. Postcomm believes that introducing a Code of Practice for Mail Integrity (“the Code”) is consistent with its statutory duties.

### ***Background***

1.7. Current licences, including that for Royal Mail, require that licensees establish procedures for ensuring the integrity of mail and use all reasonable endeavours at all times to apply these procedures.

- 1.8. Mail integrity is recognised as a key issue for the postal industry – customers will not use an operator if they don't have confidence in its ability to safeguard their mail, and mail as a medium will be affected if customers lose confidence in it, to the detriment of the whole postal industry.
- 1.9. Postcomm first publicly proposed the development of the Code in its consultation on the licensing framework<sup>1</sup>, seeking the views of consultees on the need for, and the objectives of, a Code. The consultation document published in March 2005<sup>2</sup> set out Postcomm's proposals for the draft Code and for the licence condition through which it would be enforced.

### ***Purpose of this work***

- 1.10. In the discharge of its statutory duties, Postcomm's vision for the market is "a range of reliable, innovative and efficient postal services, including the universal postal service, valued by customers, and delivered through a competitive market".
- 1.11. The Code will introduce common minimum standards for mail integrity for the postal industry, which are public, with the aim of:
- minimising the exposure of mail carried by licensees to the risk of loss, theft, damage and/or interference<sup>3</sup>, and
  - maintaining and improving licensees' performance in these areas.
- 1.12. Ensuring mail integrity is central to Postcomm's duty to further the interests of mail users since it underpins the requirement in any postal market that the sender of a letter knows that there are systems in place to ensure, so far as is possible, that mail reaches the intended recipient. The Code also supports Postcomm's duty to promote competition since competition will not develop if customers do not have confidence that their mail will reach its intended recipient.
- 1.13. Postcomm considers that mail integrity essentially means general issues relating to the security of the mail – namely the supporting systems, other than physical infrastructure, that need to be in place to ensure, as far as is possible, that mail sent by a customer reaches its intended recipient without interference. In broad terms the purpose of the Code is to ensure that licensees have considered, from a preventative

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<sup>1</sup> Licences under the Postal Services Act 2000: Licensing framework in a fully open market.

A consultation document, November 2004

<sup>2</sup> Protecting the Integrity of Mail – A Code of Practice  
A consultation document, March 2005

<sup>3</sup> An offence under sections 83 and 84 of the Act.

perspective, and addressed the areas which Postcomm considers present risks to the safe and secure handling of mail, and that licensees are able to - and do - take appropriate action when incidents occur. Postcomm's aim in introducing the Code is to provide greater clarity and direction for new and existing licensees by setting out the minimum standards that they are required to achieve. The Code will also facilitate understanding on the part of the users of postal services about the minimum standards they can expect from a licensee and that licensees will be operating to a reasonable standard.

### ***Purpose of this document***

- 1.14. This document considers the responses to the consultation on the introduction of the Code and sets out Postcomm's decision on the subject. It includes the Code and the licence condition by which compliance with the Code will be enforced.
- 1.15. Postcomm received ten responses to the consultation (from nine respondents), none of which was confidential. A list of those responding is attached at Annex A to this document and copies of the responses are available on Postcomm's website.
- 1.16. Note that all Postcomm publications referred to in this document are available on its website [www.psc.gov.uk](http://www.psc.gov.uk). Hard copies can be requested from Sarah Benson on 020 7593 2197 or [sarah.benson@psc.gov.uk](mailto:sarah.benson@psc.gov.uk).

### ***Structure of this document***

- 1.17 The document has a chapter covering each of the key issues covered in the Code. It also has a chapter on enforcement of the Code and on the licence condition and repeats, for ease of reference, the chapter on Postcomm's review of its prosecution policy which is unchanged from the consultation document. Included in the Annexes are a list of those responding to the consultation, two versions of the Code, one of which is marked up to show changes from the consultation version and the licence condition.

### ***Next steps and implementation***

- 1.18 If you would like clarification of any points raised in this document please contact Stephen Green (020 7593 2161) or Ros Poulson (020 7593 2119) by telephone or e-mail ([stephen.green@psc.gov.uk](mailto:stephen.green@psc.gov.uk) or [ros.poulson@psc.gov.uk](mailto:ros.poulson@psc.gov.uk)). Postcomm is always happy to meet stakeholders to discuss its policies and listen to stakeholder views.

1.19 In order to introduce the Code, Postcomm has to modify existing licences in accordance with the modification process set out in section 14 of the Act. Postcomm proposes that the Code takes effect from 1 January 2006.

## 2. BACKGROUND TO THE CODE

### *Introduction*

2.1. This chapter sets out Postcomm's decision on the mail integrity objectives and the scope of the Code.

### *Mail integrity objectives*

2.2. Postcomm proposed that mail integrity objectives included in the licence should underpin the requirements of the Code. The Code requires the adoption of policies which further the mail integrity objectives. Postcomm also proposed that the facility to change the Code (which is contained in the relevant licence condition) should be based on changes being made which could better achieve those objectives than the version of the Code in place at the relevant time. Changes to the Code are covered later in this document.

2.3. The mail integrity objectives which Postcomm proposed were:

- minimising the exposure of mail conveyed by a licensee to the risk of loss, theft, damage and/or interference, and
- maintaining and improving on the performance of a licensee in respect of the first objective.

2.4. The objectives were widely supported by respondents. Postwatch thought that implicit in them was that mail integrity failures would occur to some degree. The objectives should, therefore, cover the action to be taken by a licensee when failures occur, specifically concerning disciplining of staff, investigation of an incident and informing customers when an incident has occurred. Postcomm recognises that the Code does not explicitly address failures in mail integrity as its aim is largely preventative. Where such failures do occur, Postcomm's view is that measures are in place to deal with this in the requirements for disciplinary procedures and also to report incidents to Postcomm. What remains unaddressed, and which may, in due course, be worthy of inclusion in the Code, is something which covers the effective investigation of incidents. However, this is part of the review of Postcomm's policy covered in Chapter 12 below and will be subject to further consultation.

2.5. The objectives are, therefore, unchanged from those consulted on. The objectives are now contained within the Code as a result of Postcomm's decision to include the Code within the licence. This is covered further in paragraphs 2.13 – 2.17 below.

## **Themes**

- 2.6. The standards Postcomm proposed included some common themes which run through them which were meant to establish a sound basis for the Code. These covered:
- Lawful compliance in meeting the standards of the Code,
  - Mail integrity considerations to be an integral part of a licensee's mail handling processes,
  - Clear policies in place to cover key areas, and
  - Effective record keeping.
- 2.7. Respondents generally agreed that the themes outlined by Postcomm provided a good basis for the Code. In Royal Mail's view the themes set out were rational and logical but they highlighted some practical issues of compliance in relation to maintaining effective record keeping and information and reporting requirements. These are addressed later in this document.
- 2.8. Royal Mail sought a definition of "reasonably regularly" in the context of the need to monitor implementation of and compliance with the policies established under the Code. Postcomm's view is that there is not one definition of this because "reasonably regularly" will need to be assessed in the context of the size and nature of a licensee's business, the efficacy of and any problems in implementing the relevant policy, any incident of mail integrity failure and changing circumstances.
- 2.9. Royal Mail also queried whether the requirement to review the policies reasonably regularly meant that the three month notification of changes to Postwatch would be removed. Postcomm confirms that there will be no such requirement. The role of Postwatch in relation to the Code was outlined in paragraph 2.20 of the consultation document.
- 2.10. The Direct Marketing Association (DMA) suggested that all policies should be required to be made public. Postcomm does not think this is necessary. It is also concerned (particularly in relation to vetting) that publicising policies might be unhelpful as recruits could be in a position to circumvent the requirements if alerted to them. Generally Postcomm thinks that the Code gives adequate information for customers about the standards required and that policies, which are essentially internal business documents, should not be published. It is, of course, always open to a customer to request a copy of a policy from a licensee should it be of particular concern or interest.

- 2.11. Royal Mail questioned whether the personnel responsible for implementation of and compliance with the policies required under the Code could be different people. Postcomm's view is that it is for a licensee to determine how to discharge this obligation, but it has, for the avoidance of doubt, included a provision in the Code which makes it clear that the personnel responsible for implementation may be different from those responsible for compliance.
- 2.12. The themes have been maintained in the Code attached at Annex B.

***A Code outside the licence***

- 2.13. Postcomm set out its view on moving to a Code in its licensing framework consultation document. This was that the existing approach which required each licensee to produce its own mail integrity procedures was burdensome to licensees and unnecessary since the issues were common to all licensees.
- 2.14. Postcomm proposed that the Code was best established as a document which was not included in the licence itself but with which compliance was required through the licence. Royal Mail fundamentally disagreed with Postcomm's approach to introduce a Code which stood outside the licence and believed the mail integrity objectives and delivery of minimum standards for mail integrity were better achieved by placing them within the licences of individual postal operators. The Communications Workers Union (CWU) also disagreed with the proposal to have a Code outside of the licence and thought that the standards should be included within licences. The Mail Competition Forum (MCF) raised concerns about the Code being outside the licence as this meant that the Code could be altered without the process in the Act relating to licence modifications being followed. Opposing this view, the DMA and the Mail Users Association (MUA), supported having the Code outside of the licence, with compliance as part of the licence. The DMA thought a separate Code would be more effective, allowing for changes to be made on a more generic level.
- 2.15. Postwatch questioned the enforceability of the Code if it was not a condition of the licence but was linked to it.
- 2.16. Regional Mail Services (RMS) endorsed the view that the Code needed to be constructed in such a way to enable Postcomm to make changes quickly and to add measures that are as yet unforeseeable.
- 2.17. Postcomm recognises the strength of feeling raised by licensees and Postwatch on the

positioning of the Code. It has, therefore, concluded that the Code should be included as an annex to the licence. This will mean that the modification processes set out in sections 14-19 of the Act would apply to any changes to the Code.

### ***Coverage and scope of the Code***

2.18. Postcomm proposed that the Code should cover six key elements, which impacted upon mail integrity, and set out the proposed standard for each element. In each case the standard proposed was intended to be a minimum. The standards were intended to be enforceable should Postcomm need to take action, but not so onerous as to discourage entry to the market.

2.19. Postcomm proposed that the Code should cover:

- Recruitment,
- Training,
- Disciplinary procedures,
- Mail security generally, but in particular security of premises, vehicles and equipment,
- Information & reporting requirements
- Agents & Subcontractors.

2.20. The responses to the consultation were generally helpful and supportive of Postcomm's proposals. There was only one suggestion that the Code did not cover all the key areas, with RMS raising the issue of terrorist attempts to insert incendiary devices or chemical contamination into the mail. Postcomm recognises this as an issue but is satisfied that the provisions of section 85 of the Act address this without the need for inclusion of additional requirements in the Code. Section 85 establishes an offence for the sending by mail, unless the item is permitted by the postal operator, any item which might injure other postal packets or any person engaged in the business of a postal operator.

2.21. There were some areas where respondents were not in full agreement with the detail of the draft Code. These are covered later in this decision document.

### **Scope of the Code**

2.22. Postcomm set out in the consultation document its view on what the scope of the Code should be, both in relation to who should be covered by the Code and what

mail, carried by those covered by the Code, should be subject to it. The key issues considered were:

- Mail outside the licensed area,
- Unlicensed operators,
- Access only licensees, and
- Size of licensee.

#### Mail outside the licensed area

- 2.23. Postcomm proposed that the Code should cover all 'postal packets' carried by the licensee, not just mail within the licensed area. In doing so, it noted that the provisions under sections 83 and 84 of the Act, which deal with interference with mail, drew no distinction between mail inside and outside the licensed area.
- 2.24. Royal Mail believed it should be optional for the licensee to decide whether the procedures apply to all mail they carry, or only to USO traffic.
- 2.25. The MCF, DMA and the MUA opposed the proposal that the Code should apply to all mail carried by the licensee. Their main concern was one of licensees being put at an unfair competitive disadvantage with unlicensed operators when conveying mail such as express courier items or parcels through their network. Licensees would be bound by the obligations under the Code, and so subject to sanction over and above that set out in the Act, whilst no such obligations exist for unlicensed operators conveying only postal packets in the unlicensed area. It was suggested that this requirement might deter companies with existing operations outside the licensed area from entering the postal market. The DMA was also concerned that to extend the scope of the Code beyond the licensed area was re-regulation and could place a financial burden on licensees. AICES thought there should be a clear differentiation maintained between the regulation of the licensed area and other operators.
- 2.26. Postwatch thought the Code should apply to all postal packets conveyed by the licensee.
- 2.27. Postcomm recognises the views and concerns expressed by some respondents with regard to licensees being bound by a licence obligation in the unlicensed area. It notes that these concerns were also supported by some customer representative groups, albeit not by Postwatch. Postcomm has concluded that the Code should only apply to mail conveyed under the terms of the licence and not extend beyond the

licensed area. It has taken this view because it does not wish to put licensees at a disadvantage in the competitive market or to establish obligations which might prove to be a barrier to entry. Licensees would, of course, still be bound by sections 83 and 84 of the Act and, in practice, Postcomm expects that many of the standards set by the Code would be applied to mail outside the licensed area as licensees would be unlikely to make any distinction. Licensees can, of course, choose to comply with the Code for items they carry which are outside the licensed area, as suggested by Royal Mail.

- 2.28. The Code will therefore cover mail which is carried pursuant to the licence. This has been implemented by the inclusion in the Code of the concept of a “Code postal packet”, rather than reference just to “postal packet”. This applies throughout the Code other than in the obligation to declare criminal convictions, where the reference is to “postal packets”. Postcomm’s view is that licensees would wish to consider any convictions or cautions in relation to offences under the Act, regardless of whether these concerned items outside the licensed area.

#### Unlicensed operators

- 2.29. Postcomm proposed that the Code should have no application to operators carrying only mail which did not need a licence but that such operators could refer to the standards set by the Code and use these in their own business environment. Postcomm also proposed not to offer any accreditation scheme for unlicensed operators as it has no means to enforce the standards set by the Code other than through a licence.
- 2.30. Royal Mail had no objection to an accreditation scheme in principle for unlicensed operators but highlighted that Postcomm had no power to introduce such a proposal. Postwatch favoured Postcomm offering accreditation for operators outside the licensed area who may wish to apply the standards of the Code in the interests of the industry.
- 2.31. Three respondents supported Postcomm’s proposal not to extend the application of the Code to unlicensed operators, with AICES being firmly against offering any accreditation scheme for unlicensed operators as this might create the misapprehension that it is a quality mark that all reputable operators should have. However, no objections were expressed to unlicensed operators adopting and complying with the standards of the Code should they choose to do so. The MUA strongly recommended that an appropriate statutory instrument was sought to ensure

the Code was integrally linked to the provisions of the Act, thereby ensuring all carriers of postal packets are obliged to comply with it.

- 2.32. Postcomm has concluded that since it has no power to apply any accreditation and has no means of sanction, other than withdrawal of an accreditation, if an operator transgressed, it will not offer an accreditation scheme to unlicensed operators. Postcomm acknowledges the view of the MUA about seeking a statutory instrument to extend the Code to cover non-licensed operators. Its view is that such an action is not possible and that primary legislation would be necessary. This is a matter for the Department of Trade and Industry.

#### Access Licensees

- 2.33. Postcomm pointed out in its consultation document that there are risks at any point in the mail handling chain, not just during delivery, and therefore proposed that the Code should apply to all licensees, including those who only provide an access service passing all mail to Royal Mail for delivery.
- 2.34. There was unanimous agreement amongst respondents that the Code should apply to such licensees.

#### Size of Licensee

- 2.35. Postcomm proposed that the Code should apply to all licensees and that the measures smaller operators needed to put in place to comply would take account of their size. It did, however, seek comments on whether there were different requirements that should apply only to Royal Mail as the universal service provider.
- 2.36. Royal Mail initially thought it was not possible to apply a “one size fits all” set of mail integrity requirements for the postal industry. It believed Postcomm must have regard to the different sizes and capabilities and operations of licensees and that failure to take account of these differences rendered the Code unacceptable and impracticable. However, in its supplementary response to the consultation it suggested that unambiguous standards should be set within all licences so that there was a common approach across the industry. It raised a question on the section of the Code dealing with the need, in meeting their obligations, for licensees to have due regard to the size and nature of their organisations and operations, asking how this would affect the application of the Code and to what extent.
- 2.37. The MCF, DMA and MUA took an opposing view and strongly advocated Royal Mail

having the same standards for mail integrity as any other licensees. The MUA stated that “members would strongly caution against the implementation of any type of “two tier mail integrity Code” believing it would create an unlevel playing field. The MCF considered it key that for customers to be given a level of assurance and confidence to switch to alternative suppliers, licensed operators should be subject to security provisions no less stringent than those that apply to Royal Mail.

- 2.38. Postwatch took the view that nothing should be excluded from the Code, but that some additions were necessary for Royal Mail. Requirements should also not be too onerous for small operators.
- 2.39. Taking note of the views expressed by respondents, and Postcomm’s own initial consultation proposals, Postcomm does not intend to impose different obligations on Royal Mail as universal service provider. Its concern is to ensure that licensees are operating to a common standard which is recognised by customers and provides comfort that, whichever licensee is carrying their mail, a minimum standard of mail integrity will be applied.
- 2.40. The provision in the Code relating to the size and nature of the licensee is intended only to clarify the flexibility that the Code affords in setting standards and then enabling licensees to meet those standards. The purpose is to clarify that licensees will need to view the obligations in the context of their own organisations.
- 2.41. The MCF commented that Postcomm has suggested on a number of occasions that there may be a case for an alternative or “softer” approach to mail integrity for small new entrants to the market, adding that its members regard this suggestion with surprise and dismay, and entirely reject it. It noted that the mail integrity provisions in the Act make no distinction between postal operators on grounds of size and for the most part apply equally to private individuals. It suggested that if Postcomm’s intention was to provide customers with a comfort level based on the proposition that licensed operators are subject to security requirements no less stringent than those which apply to Royal Mail, that proposition effectively disintegrates if Postcomm then proceeds to license numbers of new entrants to whom the proposition does not apply. The MCF acknowledged that whilst there would undoubtedly be numbers of small new entrants whose commitment to the security of mail in their charge would be no less than that of present members of the MCF, in its view it is from amongst small new entrants that opportunistic and unsustainable competition is also likely to emerge. It suggested that if customers and the mail market are to be adequately protected in the

early days of full market opening, the focus on security needs if anything to be greater, and most certainly not less, in respect of small new entrants. The MCF accepted that the implementation of the Code would necessarily vary to some extent according to the nature and size of the operation concerned and commented that it was this, and not the rules themselves, that should provide any necessary flexibility.

- 2.42. Postcomm notes the MCF's concerns. Postcomm did not propose that there would be any different obligations for smaller licensees, but acknowledges that it has since publicised its intention to re-consider the licensing arrangements for the smaller operator<sup>4</sup>. It will take these points into consideration when it reviews the licensing arrangements for smaller operators.

### ***Definitions***

- 2.43. The Code included various definitions intended to provide clarity on the provisions and interpretation of the Code. Comments were received on three of the definitions: "damage", "incident guidelines" and "relevant employee".

### Damage

- 2.44. Royal Mail suggested that the definition of damage was unclear, commenting that since it excluded deliberate and accidental damage, no other category of damage remained. Postcomm reviewed the definition of "damage" contained in the current licences and amended it for the consultation draft so that accidental damage was excluded. Its view is that what is left is damage caused by negligence, and this was the category that Postcomm was trying to capture.
- 2.45. Royal Mail also questioned how the reference to damage occurring after the time of acceptance by a licensee impacted on access arrangements. Postcomm's view is that this is covered by the access agreement and the requirement in the Code pertaining to agents and sub-contractors.
- 2.46. No change has therefore been made to the definition of "damage" from that consulted on.

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<sup>4</sup> Licences under the Postal Services Act 2000: Licensing Framework in a Fully Open Market. A proposals document. May 2005

### Incident guidelines

2.47. Royal Mail questioned whether the incident guidelines referred to in this definition were the incident guidelines included for consultation. Postcomm confirms that this is the case.

### Relevant employee

2.48. The Code introduced the concept of a 'relevant employee'. This is a key definition in that it is central to many of the standards proposed in the Code. Postcomm's aim was to address the issue that not all of a licensee's employees would be involved in handling the mail or have access to the mail which a licensee is carrying.

2.49. The majority of respondents agreed with the definition of a 'relevant employee' and it is unchanged.

### **Summary**

2.50. Having reviewed the responses received to the consultation, Postcomm has concluded that:

- the mail integrity objectives remain as proposed,
- the themes of the Code remain as proposed,
- the Code should be incorporated in the licence and compliance with it should be a requirement of the licence,
- the Code should apply to mail carried pursuant to the relevant licence,
- there should be no accreditation scheme for operators carrying items only outside the licensed area, but such operators may adopt and comply with the Code should they choose to do so,
- the Code should also apply to access-only licensees,
- no different standards should apply to Royal Mail as universal service provider.

### 3. RECRUITMENT

#### *Introduction*

3.1. This chapter sets out the proposals Postcomm made on the recruitment of relevant employees, considers the responses received and outlines its decision.

#### *Postcomm's proposals*

3.2. Postcomm proposed the following requirements in the Code:

- Licensees should have a written recruitment policy in place and should act in accordance with this, with copies given to anyone who has responsibilities for recruitment under that policy,
- Licensees should nominate someone who is responsible for implementing and ensuring compliance with this policy,
- Licensees should monitor implementation of and compliance with this policy, and
- Licensees should regularly review the policy to ensure that it remains 'fit for purpose'.

3.3. Postcomm proposed that the recruitment policy required by the Code should set out:

- The jobs, roles or type of work to which the policy applies,
- The information about a 'relevant employee' that a licensee requires,
- How a licensee will satisfy itself of the identity of a 'relevant employee',
- How a licensee will confirm a 'relevant employee's' work history over a period of five years, or less where the individual does not have that length of work history,
- A requirement for applicants to declare any criminal convictions, cautions or conditional discharges relating to postal matters or general dishonest conduct, and
- How licensees will assess any convictions declared to them.

3.4. The Code proposed that the policy should set out what information a licensee should seek about prospective employees. Postcomm took the view that there is some information which should always be sought and included this in the draft Code and proposed that the checks a licensee carried out on recruitment should focus on:

- The identity of an employee,
  - An employee's work history, and
  - Whether that employee has any criminal convictions.
- 3.5. One respondent pointed out the possibility of circumvention of the recruitment policy should an employee change in role within an organisation to a position where they would come into contact with mail conveyed by the licensee and suggested a requirement which specified the need for the policy to deal with such situations.
- 3.6. Postcomm acknowledges this point and has amended the Code to ensure that it is addressed.

### ***General***

- 3.7. Royal Mail questioned whether the recruitment policy was intended to cover all categories of employees and pointed out the need to differentiate, for example, between temporary and permanent members of staff. Postcomm's view is that the use of "relevant employee" makes clear that the policy should cover all categories of staff encompassed within that definition. It also stated in paragraph 3.13 of its consultation document that it was not suggesting that the same procedures should apply to all categories of relevant employee.

### ***Identity of Relevant Employees***

- 3.8. There was unanimous support for Postcomm's proposal that licensees should confirm the identity of relevant employees. Royal Mail commented that it thought it essential to comply with current legislation to confirm the 'relevant employee' has the right to work in the UK either directly by the licensee or via Agency suppliers. Postcomm has considered this issue and, while it could be said to impact on the honesty of an individual, has concluded that this is essentially an employment issue and not a mail integrity issue. It has, therefore, not made an amendment to the Code. It is, of course, open to licensees to supplement the provisions of the Code in the policies they establish to give effect to it.
- 3.9. Postwatch did not believe the verification checks to be too onerous for licensees nor too difficult for the applicants to provide.
- 3.10. The standard pertaining to checking the identity of relevant employees is unchanged.

### ***Work history of 'relevant employees'***

- 3.11. Postcomm proposed a standard that required licensees to verify a prospective employee's work history for a five year period, or less where a prospective employee does not have that length of work history.
- 3.12. Royal Mail raised concerns around the requirement to verify a relevant employees' work history for a 5-year period. They pointed out that whilst they currently request a 5-year employment history and undertake a reference check for employment over the past year, this only applies for staff employed on a permanent basis. For individuals employed on a casual basis, the work information requirement is reduced to 2 years because these individuals are recruited for a period of less than twelve weeks. Royal Mail therefore felt the requirement to check employment history over the preceding 5 years for all categories of employee was unduly onerous.
- 3.13. Postwatch took the view that the more checking of an individual's work history that can be done the more that can be done to protect the integrity of the mail. It advocated going a step further by adopting BS7858 for the vetting of guards, supported by the Security Industry Association, which sets a 10 year period as the criterion for vetting.
- 3.14. Postcomm has considered both these views. It thinks that the proposal by Postwatch is an excessive requirement for a Code which is setting minimum standards although, as ever, licensees might choose to adopt the more rigorous standard. It also is not convinced by Royal Mail's arguments for reducing the period for establishing the work history of a temporary employee. In its consultation document it noted the threat to the security of the mail posed by individuals deliberately seeking to infiltrate a licensee's organisation. In Postcomm's view, this is most likely to occur in temporary staff being taken on, precisely because lower recruitment standards might be expected. An individual employed by a licensee even for a short period of time still poses a risk to the security of the mail. Postcomm has therefore concluded that the requirement for work history to be established for a five year period should apply to all categories of 'relevant employee'.

### ***Declaration of criminal convictions***

- 3.15. Postcomm proposed that licensees should require prospective 'relevant employees' to declare whether they have any current criminal convictions (including conditional discharges) or cautions for offences relating to dishonesty. Such proposals did not

suggest that any individual who had a criminal conviction should not be able to gain employment with a licensee. The purpose of the standard was to ensure that licensees are fully informed when taking decisions on the employment and deployment of such individuals.

- 3.16. Royal Mail believed 'relevant employees' should be asked to declare criminal convictions where appropriate but pointed out that there is no legal requirement to make such declarations and that it was up to licensees to determine their own policies whilst complying with the mail integrity objectives. Royal Mail commented that it had 'no desire' to take cautions into account when recruiting and questioned the utility of any requirement to do so. It also recommended that Postcomm consider the issues around international criminal record checks. Finally, it suggested that it was illegal under the Rehabilitation of Offenders Act 1974 to take conditional discharges into account.
- 3.17. The MUA fully supported Postcomm's proposals for relevant employees to declare criminal convictions relating to dishonesty.
- 3.18. Postwatch commented that it is widely recognised that organised crime would target companies that carry high value goods. It advocated licensees having to undertake criminal record checks of all 'relevant employees' who will have access to registered and insured items.
- 3.19. Postcomm recognises the points raised by Royal Mail on the declaration of criminal convictions. It agrees that it is up to licensees to determine their own policies and has enabled them to do so in the Code, specifying only the provision that information on criminal record information is sought. This could be by means of self-declaration, or licensees could require individuals to produce subject access disclosures obtained from the Police under data protection legislation. It notes that in due course licensees may have the option of using the 'basic check' service from the Criminal Records Bureau, but it does not think that 'enhanced checks', as suggested by Royal Mail, are appropriate as they provide access to convictions which are spent.
- 3.20. Postcomm has considered Royal Mail's concern about asking for information on cautions. However, Postcomm notes that it has issued several cautions under sections 83 and 84 of the Act for interference with the mail and assumes that Royal Mail will also have issued such cautions. If a licensee did not ask for information on cautions then it might recruit an individual unaware that the individual already has a history of mail interference with it or with another licensee. Postcomm's view is that this is not

an acceptable position and that licensees should take informed decisions.

- 3.21. Postcomm is aware of the issues in securing access to international criminal record information. It overcomes this in its own licensing process by requiring the provision of Certificates of Good Conduct, or equivalent, from the Police force in the relevant country. It sees no reason why licensees should not adopt the same approach to fulfil the requirements of the Code.
- 3.22. Postcomm has taken legal advice on the ability to seek information on conditional discharges. There is a question of whether conditional discharges can be considered separately from convictions, since a conditional discharge is imposed where a court has convicted a person of an offence which does not have a sentence fixed by law. The Rehabilitation of Offenders Act 1974 does not expressly deal with conditional discharges or cautions. However, Postcomm is satisfied that these are appropriate questions to ask, particularly in the context of the Data Protection Act which requires that information should be sought only if it is relevant to the job to be filled. Given that the Code requires the information to be sought only for offences relating to postal packets or dishonest conduct generally, Postcomm is satisfied that licensees are justified in asking for this information. Also, the Code makes it clear that a licensee is not required to act unlawfully.
- 3.23. In response to Postwatch's suggestion on checking criminal records, Postcomm's view is that licensees can choose to check the criminal records but that this should not be a requirement. It notes the Home Office's confirmation that any licensee could make a submission for access to criminal record information on the same basis as that made by Royal Mail. Postcomm would expect any licensee that proposes to handle high value mail would consider whether it should exceed the requirements in the Code, and it is likely that customers may demand this in any event.
- 3.24. A minor change to the wording (the word "assessed" has been removed) of this provision in the Code has been made to clarify it, following a comment from Royal Mail.

### ***Sharing information***

- 3.25. In the consultation document Postcomm looked at the possibility of sharing information between licensees on action taken against employees after incidents affecting the integrity of mail. Postcomm proposed to discuss the issue further with licensees and Postwatch, and consider whether it should seek to put any arrangements

in place for sharing information and, if so, how this could be done.

- 3.26. The majority of respondents supported the need for there to be a mechanism for sharing mail integrity information provided it complied with current legislation. The CWU did, however, have concerns at the implications which such sharing would have, particularly in relation to data protection legislation. The MUA thought it entirely appropriate for licensees to share information on the action taken against employees after incidents affecting the integrity of the mail and suggested Postcomm look at the 'Industry Register' that operates in the Retail Sector.
- 3.27. Postwatch strongly supported the notion of information-sharing between licensees in relation to action taken against employees for breaches affecting the integrity of the mail. It also advocated that should Postcomm devise arrangements for information sharing of this nature, making it a condition of the Code for licensees to use and regularly update such information.
- 3.28. Postcomm recognises the importance of information sharing on employees after incidents affecting mail integrity in order to mitigate the risks of further incidents and welcomes the support of respondents on this. It is currently looking at various options regarding data capture on mail integrity incidents which are compliant with legislative and regulatory requirements and have the potential to cater for the information needs of the wider postal industry in sharing information and intelligence on mail integrity incidents. Some work has already been done on this, including consultation with the Information Commissioner and examination of the scheme put in place by the British Retail Forum. Postcomm is clear that it would be possible to establish a legally acceptable scheme for the sharing of information. This work is part of the wider review of Postcomm's prosecution policy which is covered in Chapter 12 below. Postcomm expects to consult on the outcome of this review in due course.

### **Summary**

- 3.29. Having considered the responses of consultees to its proposals, Postcomm has concluded that this section of the Code should remain as drafted, apart from one minor clarificatory amendment.

## 4. TRAINING

### *Introduction*

4.1. This chapter sets out Postcomm's proposals on training and the response from consultees and outlines the decisions Postcomm has taken.

### *Postcomm's proposals*

4.2. Postcomm proposed the following requirements in the Code:

- Licensees should have a written training policy in place and should act in accordance with this, with copies given to anyone who has responsibilities under that policy,
- Licensees should nominate someone who is responsible for implementing and ensuring compliance with this policy,
- Licensees should monitor implementation of and compliance with this policy,
- Licensees should regularly review this policy to ensure that it remains 'fit for purpose', and
- All 'relevant employees' should be informed of the provisions of sections 83 and 84 of the Act and made aware of the seriousness of those offences.

4.3. Postcomm proposed that the training policy required by the Code should set out:

- The levels of training required to meet the mail integrity objectives, including the minimum level of training,
- The levels of training required taking into account the responsibilities of and work undertaken by 'relevant employees' in relation to mail,
- How the training will be provided,
- The frequency of the training, and
- Details of how the training is delivered, recorded and monitored.

### *Respondents' views*

4.4. Respondents were largely supportive of Postcomm's proposals.

4.5. Royal Mail raised some concerns around the recording of informal ongoing training when delivered through team briefs or individual coaching sessions where it was difficult to record actual details of attendance levels or capture information centrally.

Postwatch commented that whilst it thought higher vetting standards were required for employees carrying higher value mail this view did not extend to training. The MUA recommended Postcomm producing a pamphlet relating specifically to the provisions of sections 83 and 84 of the Act which could be used for training purposes.

### ***Postcomm's views***

- 4.6. Postcomm acknowledges Royal Mail's concern about the recording of informal training. It notes, however, that this is not specifically required by the Code. Royal Mail (and other licensees) will need to consider how they wish to deliver the necessary training to facilitate achievement of the mail integrity objectives and how they can demonstrate that they have done so. Such demonstration would be important should prosecutions be undertaken under sections 83 or 84 of the Act and Postcomm therefore assumes that, since Royal Mail undertakes such prosecutions, it already has appropriate recording arrangements in place. However, if this is not the case, then Postcomm's view is that Royal Mail needs to consider whether it is appropriate that training which is important in the achievement of the mail integrity objectives is delivered in such a way that Royal Mail has no means to determine whether it has been carried out or who has received the training.
- 4.7. Postcomm does not think a pamphlet on sections 83 and 84 of the Act is necessary. The provisions of the Act are readily available to licensees and it is for them to determine what training is carried out in this area.

### ***Summary***

- 4.8. Having considered the responses of consultees to its proposals, Postcomm has concluded that this section of the Code should remain as drafted.

## 5. DISCIPLINARY PROCEDURES

### *Introduction*

5.1. This chapter sets out Postcomm's proposals on disciplinary procedures and the responses from licensees and outlines the decisions Postcomm has taken.

### *Proposals*

5.2. Postcomm proposed the following requirements in the Code:

- Licensees should make employees aware of the standards of conduct expected of them, with these standards facilitating achievement of the mail integrity objectives,
- Licensees should have a written disciplinary policy in place which sets out the action to be taken if a 'relevant employee' fails to adhere to the standard of conduct expected of him or her and should apply that policy,
- Licensees should nominate someone who is responsible for making 'relevant employees' aware of the standard of conduct expected of them and implementing and ensuring compliance with the discipline policy,
- Licensees should monitor implementation of and compliance with the standards of conduct and the disciplinary policy,
- Licensees should regularly review the standards of conduct and the disciplinary policy to ensure that they remain 'fit for purpose'.

5.3. Postcomm proposed that the disciplinary policy required by the Code should set out:

- What constitutes a failure to meet the required standards of conduct and what action will be taken in the event of such a failure,
- How a licensee will ensure that all 'relevant employees' understand that a breach of the standards of conduct may sometimes be a criminal offence and how this will be dealt with,
- The records that will be kept on action taken under the disciplinary policy, and
- A process to identify consistent failure to meet the standards of conduct and take action.

### *Respondent's views*

- 5.4. Feedback from respondents on this section of the Code was mixed. Royal Mail, although agreeing in broad terms with the proposed requirements, thought it was not appropriate for Postcomm to specify how and to what extent it is to discipline its employees for breaches of a Code of Conduct but that this must reflect each organisation's employment practices. It also commented that, in respect of agency staff, they would need to be responsible for disciplining staff.
- 5.5. Postwatch made a range of suggestions. They thought the standards should go further and cover the action to be taken by a licensee when a failure occurs, specifically to deal with disciplining of staff and investigation of incidents. They also suggested that licensees should inform both the intended recipient and posting customer when mail is stolen, dumped or intentionally delayed to enable customers to take action accordingly. They proposed that the Code should require all licensees to co-operate with other licensees to discuss best practice at least twice a year. Finally they expressed reservations as to whether the standards in this section of the Code could effectively ensure the integrity of the mail where the licensee was a 'one man band', commenting that these licensees would in effect, be self policing which was, in their view, unsatisfactory. Their suggestion was that Postcomm should adopt a more proactive role in this area where a licensee is below a particular size.
- 5.6. The MUA supported the proposals and commented that they expected that licensees would see the measures as good practice. They raised the issue of Royal Mail's present independent disciplinary procedures, and how these would be monitored externally in the future so as to avoid double standards.

***Postcomm's view***

- 5.7. The standards proposed in the draft Code do not, in Postcomm's view, tell licensees how and to what extent they have to deal with their employees for breaches in discipline. Rather, the Code requires licensees to determine what, if any, action to take should an individual act in a way which compromises the integrity of the mail. This is consistent with Postcomm's aim that the Code should set the standards but leave licensees free to determine how to meet the standards in a way which meets the needs of their business.
- 5.8. Postcomm acknowledges that it would be for the agency and not the licensee to be responsible for the disciplining of staff provided by the agency. Its view is that this is dealt with by the requirements of the Code in respect of agents and sub-contractors.

- 5.9. Postcomm has concluded that the investigation of incidents by licensees is best considered as part of the review of its prosecution policy. Postwatch's views will, therefore, be considered in this context.
- 5.10. Postcomm has considered Postwatch's suggestions on advising intended recipients and posting customers when mail is stolen, dumped or intentionally delayed to enable the customers to take action. It has concluded that this is best left to the market, with sending customers determining how this should be dealt with. It notes that the senders and recipients of mail may not always be readily identifiable, especially when mail is stolen.
- 5.11. Postcomm acknowledges Postwatch's views on 'one man bands' and will consider these in its review of the licensing arrangements pertaining to the smaller operator.

**Summary**

- 5.12. Having considered the responses of consultees, Postcomm has concluded that the Code should remain as drafted. It will, however, consider the applicability of this section of the Code to the smaller licensee in its separate review.

## 6. SECURITY OF THE MAIL

### *Introduction*

6.1. This chapter sets out Postcomm's proposals on the security of mail and the responses from licensees, and outlines the decisions Postcomm has taken and the reasons for those decisions.

### *Proposals*

6.2. Postcomm proposed the following requirements for the Code:

- Licensees should establish, maintain and adhere to such other policies and procedures as may be reasonably necessary to facilitate achievement of the mail integrity objectives, in particular in relation to the security of relevant premises, and the use of vehicles and equipment in the collection, conveyance or delivery of mail,
- Licensees should nominate someone who is responsible for taking such steps, and
- Licensees should nominate someone who is responsible for monitoring compliance with such policies and procedures.

6.3. The policies and procedures that the draft Code requires should be put in place should cover:

- Regular risk assessments,
- Measures taken to prevent loss or theft of, damage or interference to mail by third parties or unauthorised third party access to the mail,
- Provisions for monitoring places where mail is handled or conveyed.

6.4. Postcomm proposed in this section of the Code the preventative action needed to deal with the risks posed to mail and proposed one requirement which is addressed towards the licensee being in a position to react to an incident – the requirement for a complete audit trail in the mail handling process. The Code focuses on inappropriate access to postal packets so that licensees did not, for example, need to consider the security of all their buildings, but focus on the vulnerable points where mail is handled and address these accordingly.

### ***Respondents' views***

- 6.5. Royal Mail reiterated its view that it was not possible to create a 'one size fits all' set of requirements for all postal operators. The CWU, although maintaining its opposition to a Code outside the licence, believed the security of mail principles proposed were generally positive.
- 6.6. Royal Mail also commented that it would not be practical for Royal Mail or any other operator handling significant amounts of mail to provide a complete audit trail for the mail handling process, because of the huge volumes involved.
- 6.7. The MUA and DMA supported Postcomm's proposals.
- 6.8. Postwatch did not believe that the requirements in the Code for ensuring the security of the mail went far enough. It also thought Postcomm should place 'more concrete' obligations on licensees handling registered and insured items to prevent loss and theft of, and interference with, these mail items.

### ***Postcomm's View***

- 6.9. Postcomm accepts Royal Mail's concerns about the audit trail for the mail handling process. It has amended the Code to cater for this, introducing the qualification of "as far as is reasonably practicable", to the requirement.
- 6.10. Postcomm does not accept that the obligations are not sufficiently concrete. It believes that the wording represents a realistic and proportionate approach to the security of mail items. The relevant provision of the Code is designed to address systemic failure rather than one off incidents.
- 6.11. Postcomm also does not accept Postwatch's suggestion on 'more concrete' obligations for the handling of higher value mail items. As before, it is for the licensee to exceed the requirements of the minimum standards set, or for the customer to demand this, if it is considered appropriate.
- 6.12. Postcomm has made a further amendment to this section of the Code. This requires licensees to have measures in place which, in addition to preventing loss or theft of, damage to, or interference with relevant mail items, requires measures which detect such instances. Postcomm's view is that the detection of mail integrity failures is important, and such measures will enable licensees to meet the revised mail integrity objectives.
- 6.13. In reviewing the Code, Postcomm noticed that the obligation to review reasonably

regularly the procedures and policies required under this section of the Code had been unintentionally omitted. It has now included this, using the formulation used in the other chapters of the Code.

***Summary***

- 6.14. Having considered the views of consultees, Postcomm has amended the Code to ensure that records creating an audit trail in the handling of a mail item are required to be in place, but only insofar as this is reasonably practicable. An amendment has also been made to require measures to be put in place which detect mail integrity incidents and to correct the omission of the need to review the policies and procedures.

## 7. INFORMATION AND REPORTING REQUIREMENTS

### *Introduction*

7.1. This chapter sets out Postcomm's proposals on information and reporting requirements and the responses from licensees. It outlines the decisions Postcomm has taken and the reasons for them.

### *Postcomm's proposals*

7.2. Postcomm proposed the following requirements for the Code:

- Licensees should record all mail integrity incidents,
- Licensees should swiftly report serious incidents to Postcomm, and carry out an initial investigation of these incidents (Postcomm included guidelines for consultation on what constituted a serious incident),
- Serious incident records should include information on
  - (a) the date, time and place of the incident;
  - (b) the number of (or where the precise number is not known, a reasonable estimate of the number of) items involved;**
  - (c) the 'relevant employee(s)' involved in the conveyance of the items involved in the incident;**
  - (a) (d) the circumstances pertaining to the incident; and**
  - (e) any other information in relation to the incident which Postcomm may require,**
- If a licensee decides to instigate a prosecution it should inform Postcomm,
- Licensees should review the information recorded on incidents with a view to assessing trends, risks and mitigation,
- Licensees should report annually to Postcomm on mail integrity incidents, analyse any trends on a year on year basis and set out what they propose to do to address adverse trends, and
- Licensees should nominate someone to take responsibility for the recording and reporting responsibilities in the Code.

### ***Respondents' views***

- 7.3. There was a range of views from respondents which were mainly concerned with the guidelines Postcomm has set on what constituted a “serious incident” and so necessitated reporting to Postcomm. Some suggested the level was too low, others that it was too high, and others proposed refinements based on the nature of mail being carried. One respondent suggested that the level at which reporting was required did little to enhance customer confidence in mail integrity and undermined users’ trust and overall confidence.
- 7.4. Royal Mail broadly agreed with Postcomm’s proposal for recording information but said that certain requirements in the proposed Code, such as the obligation to be able to identify relevant employees involved in the conveyance, receipt delivery and handling of each postal packet would be completely impracticable. This view was also supported by UK Mail.
- 7.5. Royal Mail commented that it was not clear how much of this section of the Code related to Royal Mail.
- 7.6. The MUA supported Postcomm’s proposals in this area but expressed concern over non- licence holders being unlikely to report mail integrity incidents, therefore contributing to a loss of confidence in the industry as a whole.
- 7.7. Royal Mail and the CWU did not believe it was appropriate for Royal Mail to pass on information regarding prosecution of individuals to Postcomm, this being a matter for the operator itself. However, the majority of other respondents welcomed Postcomm’s proposals and raised no objections.

### ***Postcomm's views***

- 7.8. Postcomm recognises the difficulties in providing an audit trail for tracking specific postal packets and has amended the Code to address this. The formulation used mirrors that now used in the section on the security of mail, introducing a ‘as far as is reasonably practicable’ qualification.
- 7.9. In view of the diversity of views and the importance of getting the reporting requirements right, Postcomm proposes to discuss further with stakeholders how “serious incident” should be defined. As the reporting guidelines are separate, this would not affect the timescales for the proposed implementation of the Code. The guidelines have, therefore, not been changed but have been included with this

document at Annex E in the same form as in the consultation document. This is for ease of reference only. Postcomm would, however, expect the principles of the guidelines to remain broadly as drafted, but with changes to the level at which incidents had to be reported being further considered.

- 7.10. Postcomm recognises the concerns of the MUA about non-licence holders being unlikely to report mail integrity incidents. However, since it has no locus over such operators it is unable to put anything in place to address this.
- 7.11. Postcomm confirms that, whilst Royal Mail continues to prosecute its own staff, section 7 of the Code has limited application to Royal Mail. The requirements in paragraphs 7.2 and 7.3 of the Code and the associated guidelines for reporting serious incidents apply only to licensees who are not carrying out such prosecutions.
- 7.12. Postcomm does not accept the views of Royal Mail and CWU about the reporting of prosecutions to Postcomm. Postcomm's view is that it needs to be informed about serious mail integrity incidents across the industry as a whole so that it can consider the effectiveness of the Code. Whilst Postcomm currently has this information for the other licensees, it does not for Royal Mail, and needs to address this. The need for information on prosecutions would apply to any other licensee undertaking its own prosecutions. Postcomm does, however, propose to amend the Code to require information on prosecutions to be provided on a quarterly basis and not as each prosecution is instigated. This will reduce the administrative burden on licensees while keeping Postcomm informed.

### **Summary**

- 7.13. Having considered the responses of licensees Postcomm has concluded that:
- further discussion is required on the guidelines for the reporting of serious incidents,
  - the requirement for an audit trail of individuals coming into contact with a postal packet should be amended,
  - reporting to Postcomm of prosecutions undertaken should be made on a quarterly basis,
  - this section of the Code should otherwise remain as drafted.

## 8. AGENTS AND SUBCONTRACTORS

### *Introduction*

8.1. This chapter sets out Postcomm's proposals on agents and subcontractors and the responses from consultees on these proposals. It outlines the decisions Postcomm has taken and the reasons for these.

### *Postcomm's proposals*

8.2. The Code:

- Requires that licensees take all reasonable steps to ensure that all franchisees, agents or sub-contractors involved in handling or conveying mail on their behalf comply with the Code as if it applied directly to them, and
- Acknowledges that where the franchisee, agent or sub-contractor used by a licensee is also a licensee, then the contracting licensee can rely on the requirement for the contracted licensee to comply with the Code.

### *Respondents' views*

8.3. Royal Mail believed it could encounter significant difficulty with the Code as drafted in connection with the area of international mail and of handling mail at airports and seaports. It sought clarification on whether the Code was intended to cover these areas. It anticipated that this would also be an issue for other licensees.

8.4. Postwatch pointed out that the Code only covered agents and subcontractors involved in handling or conveying mail and so appeared to exclude agencies involved in the recruitment of staff. Its view was that obligations should apply in this area also. Postwatch also suggested that the use of 'all reasonable steps' was loose and would make it difficult for Postcomm to prove that breaches had occurred.

8.5. The DMA and MUA supported the proposals with the DMA commenting that, while it is the licensee's commercial decision to subcontract, it cannot then abdicate its responsibility within the Code. The MUA added that Postcomm's statement about the integrity of the market being at stake if the issue of franchisees, agents and sub-contractors was not addressed substantiated the argument for all operators conveying postal packets to be covered by the code.

8.6. RMS raised the issue of management by a licensee of a licensed sub-contractor and whether this allowed the contracting licensee to assess performance records.

***Postcomm's view***

8.7. Postcomm recognises the issue raised by Royal Mail about shipping agents including those used in the carriage of international mail. Postcomm is concerned at a suggestion that a possibly lower level of mail integrity might apply because, for example, a sub-contractor is used, but it also wishes to ensure that the provisions of the Code are realistic. It has therefore amended the wording, taking out the reference to "all reasonable steps", but adding licensees should act "as far as is reasonably practicable". Postcomm considers that this should provide the necessary flexibility to licensees and is satisfied, contrary to the concern expressed by Postwatch, that this wording enables enforcement.

8.8. Postcomm welcomes Postwatch's recognition of a key omission in this section of the Code. The Code has been amended to ensure that recruitment agencies are covered.

8.9. Postcomm acknowledges the MUA concerns about unlicensed operators but reiterates the limits on its powers in this area.

8.10. Postcomm can reassure RMS that the provisions of the Code in this area do not impact on the ability of one licensee to performance manage another. That can still be dealt with in the relevant contractual provisions that they agree between themselves.

***Summary***

8.11. Having considered the views of consultees, Postcomm has concluded that:

- measures in relation to agents, sub-contractors and franchisees should be taken to ensure, "so far as is reasonably practicable", compliance with the Code,
- this section of the Code should be amended to extend to agents and sub-contractors used in the recruitment process, and
- the Code should otherwise remain as drafted.

## 9. ENFORCEMENT OF THE CODE

### *Introduction*

9.1. This chapter sets out Postcomm's proposals on enforcement and the responses from consultees. It outlines the decisions Postcomm has taken and the reasons for them.

### *Proposals*

9.2. Postcomm proposed that enforcement of the Code would be carried out through:

- The application process, and
- The monitoring of licensees.

9.3. Postcomm proposed that it would take a view on the ability of an applicant to comply with the Code at the licence application stage and that there would be some monitoring of licensees to ensure they were complying with the Code. Postcomm would continue to act on information it received that suggested and supported an allegation that a licensee might be in breach of the terms of its licence. In addition, it would put in place a limited pro-active monitoring programme to ensure that a selection of licensees was assessed each year.

### *Respondents' views*

9.4. Royal Mail was unclear on how Postcomm was proposing to enforce the Code and required further clarification in order to form a view. It questioned what was meant by a risk-based assessment.

9.5. The MCF reiterated its strong objection to the suggestion of a "softer" approach to mail integrity for small new entrants to the market.

9.6. Postwatch raised some concerns about the enforceability of the Code. The first of these was the vires issue questioning Postcomm's ability to enforce a Code linked to the licence but not a licence condition. This issue has been discussed in Chapter 2 above. Secondly, Postwatch questioned Postcomm's proposals on how the Code would be enforced through the application process and monitoring programme and whether this was sufficiently robust. Postwatch suggested that Postcomm should explore methods of naming and shaming of licensees (such as those used by the Advertising Standards Authority for breaches of its Code of Practice) and individuals employed by licensees, (such as in the health sector). Thirdly, Postwatch thought the level of prescription in the drafting of the Code could be tightened to enable

enforcement.

- 9.7. The MUA raised a concern that Postcomm's proposals for monitoring licensees were insufficiently prescriptive. It commented that there was no indication whether Postcomm intended to set up a specific body to control this aspect of the Code and / or how this body would be funded. Nor was there any indication of how Postcomm would take action on the basis of information it gains under the new reporting requirements. The MUA was concerned that appropriate resources were in place to ensure enforcement could be carried out in every instance, commenting that it would be unfair to implement enforcement by identifying only a few offenders and using these as an example to others, given the business implications such action would have on the credibility of the company concerned. The MUA requested Postcomm provide more information on how exactly it intends to fund and police the market.
- 9.8. Royal Mail raised a concern that it was paying, through its licence fees, for Postcomm to investigate and take action against employees of other licensees under sections 83 and 84 of the Act.

#### ***Postcomm's View***

- 9.9. Postcomm has set out its proposals for monitoring of licensees and in taking any formal enforcement action it would be guided by the provisions of sections 22 – 29 of the Act. In terms of investigating specific mail interference incidents under sections 83 and 84 of the Act, Postcomm retains a team of consultant investigators and also has investigative capacity in-house. To date, it has carried out an investigation on each more serious incident reported to it. Several cautions have been issued, one successful prosecution completed and other prosecutions are pending. Postcomm is aware that as competition develops in the market, the amount of mail carried by licensees other than Royal Mail (which carries out its own prosecutions) will increase and a proportionate increase in investigations to be handled by Postcomm could be expected as a result. This is being considered in the review of Postcomm's prosecution policy, which will consider the resource implications of each option.
- 9.10. Postcomm accepts as a matter of fact Royal Mail's assertion that its licence fees are paying for the investigation of potential offences committed by employees of other licensees. Its view is that such investigation is for the good of the industry as a whole, and therefore does have a positive impact on Royal Mail, but that, in any event, this matter being considered as part of the review of Postcomm's prosecution policy.

- 9.11. Postcomm is satisfied with its ability to enforce compliance with a Code whether it sits inside or outside the licence. However, Postcomm has decided that the Code will sit inside the licence. Postcomm is also satisfied that the application process and its monitoring programme are sufficiently robust. It recognises that its approach on licence applications does not ensure that each applicant will be visited, but is satisfied that it will be in a position to determine and carry out the appropriate visits. It will, of course, keep its approach under review in the light of experience.
- 9.12. Postcomm is also satisfied that its monitoring proposals are robust. A risk-based approach, taking into account problems experienced with licensees, the volume of mail carried, the size of the licensee and the annual returns on mail integrity appears to it to be a reasonable basis for determining a monitoring programme which is proportionate. Again, it will keep its approach under review.

### ***Summary***

- 9.13. Having considered the views of consultees, Postcomm has concluded that that no changes are necessary to the proposals (although given the strength of feeling about the positioning of the Code, Postcomm has decided to bring this within the licence). Also, it notes that the review of Postcomm's prosecution policy may have an impact in this area.

## **10. CHANGES TO THE CODE**

### ***Introduction***

10.1. This chapter sets out Postcomm's proposals on changes to the Code and the responses from consultees. It outlines the decisions Postcomm has taken and the reasons for them.

### ***Postcomm's proposals***

10.2. Postcomm proposed that the Code should not be included in the licence itself but rather be a separate document with which compliance is required under the terms of the licence. Such a structure would mean that there was no statutory mechanism in place for dealing with any changes to the Code as there would be if it was a licence condition.

10.3. Postcomm proposed that all requests for change to the Code should be referred to it. Postcomm would then review any change proposal to ensure it better facilitated achievement of the mail integrity objectives. Postcomm believes that such an arrangement would ensure that all change proposals were considered, but ensure it was not required to consult on ill-founded proposals. All change proposals that appeared consistent with the mail integrity objectives would be subject to a minimum of a 28 day public consultation. Postcomm would then take consultees' views into account in making its final decision on the request for change. If after this Postcomm did not think that a change should be implemented it would advise those who had proposed the change and all those responding, clearly setting out the reasons why it had taken this view.

10.4. Condition 9 of Royal Mail's licence provides that 'any person' can propose a change to the Access Code and Postcomm proposed this formulation for this Code. It also proposed that it should be able to propose changes to the Code because it needed to ensure that it was in a position to do so in relation to its role in taking action under sections 83 and 84 of the Act.

### ***Respondents' views***

10.5. Royal Mail, notwithstanding its view that the Code should not stand outside the licence, said that Postcomm should be prepared to address any concerns that postal operators may have which, by full consultation, might result in licence changes. However, the power to propose changes should be limited to Postcomm and licence

- holders.
- 10.6. Royal Mail thought that any changes to the Code should be by mutual agreement, where Royal Mail can agree the changes, understand their implications and calculate any business impact. Royal Mail believed that other licensees should be allowed the same discretion. It was concerned that consultation, while sounding ideal, could become a complicated process, ultimately leading to changes against the wishes of licensees and with consequential adverse impact on the services licensees are able to provide. It suggested that this potential lack of clarity was fundamentally wrong and could lead to barriers to entry and onerous and impractical requirements for existing licensees.
- 10.7. The MCF commented that the proposed change mechanism circumvents the usual protections relating to licence changes (ie that changes not agreed may be referred to the Competition Commission). Given that the criminal sanctions in the Act apply in any event, and this protects customers, the MCF would wish to have a similar check on Postcomm's powers in the context of changes to the Code.
- 10.8. The DMA commented that the key to effective code development is to ensure that all stakeholders have the opportunity to contribute any changes and are able to analyse proposed changes. It thought that a 28 day consultation period appeared fit for purpose. The MUA also supported this position, although it suggested that it might be appropriate for less significant changes to be approved by licensees only. In addition, it suggested that Postcomm should also consider proposals for changing the mail integrity objectives as well as the Code, to ensure that the Code remains relevant and applicable to the changing postal market. RMS also welcomed the approach to changes, commenting that these issues need to be reviewed from all possible directions, although it was important that serious omissions that come to light must be handled with due speed.
- 10.9. Postwatch agreed with Postcomm's proposal and thought this would encourage incremental changes to the Code as these become necessary. They also propose that Postcomm should consider a review of the Code after three years, enabling more root and branch changes to be made.

### ***Postcomm's Views***

- 10.10. The concerns about the process for changes to a Code which sits outside the licence have been addressed by Postcomm's decision to make the Code part of the licence.

Any changes to the Code will be changes to the licence and will therefore follow the modification process set out in the Act.

- 10.11. Postcomm does not agree with Royal Mail's suggestion to limit those who can propose changes to the Code to Postcomm and licensees, as this would exclude any customer representation.
- 10.12. Postcomm has considered limiting those who could propose changes, although it would not envisage a situation where no customer representative could propose a change, but has concluded that mail integrity was such an important issue that change proposals ought not to be discouraged by limiting who can propose changes. It will, however, review this position if it finds that it is receiving ill-founded proposals.
- 10.13. Postcomm agrees with the MUA that changes to the mail integrity objectives are also key, and agrees that it should also accept proposals for changes to these from a range of stakeholders.
- 10.14. Postcomm notes Postwatch's proposal for a review of the Code. Postcomm has confirmed its intention for a review of the licensing arrangements to be carried out in 2008. This would also encompass the Code.

### ***Summary***

- 10.15. Having considered the views of consultees, Postcomm has concluded that:
- all requests for change should be referred to Postcomm,
  - changes to the Code would be subject to the modification process set out in the Act, and
  - the Code will be reviewed in 2008.

## 11. LICENCE CONDITION

### *Introduction*

11.1. This chapter sets out Postcomm's proposals on changes to the draft licence condition and the responses from consultees. It outlines the decisions Postcomm has taken and the reasons for them.

### *Postcomm's proposals*

11.2. Postcomm proposed that the Code should be a separate document to the licence, but with licensees required to comply with it under the terms of the licence. The licence terms therefore included this compliance obligation. Postcomm also proposed that the Code could only be changed after public consultation; this change mechanism was also set out in the licence.

11.3. Postcomm proposed that the compliance obligation should be absolute, i.e. not one that is based on "best" or "all reasonable" endeavours.

### *Respondent's views*

11.4. Royal Mail stated that the lack of any 'reasonable endeavours' provision meant there was no room for small errors in operations.

11.5. The DMA supported Postcomm's draft licence terms.

### *Postcomm's view*

11.6. Postcomm does not believe that the licence formulation means that there is no room for small errors in operations. Licensees can provide for flexibility in their operations through the policies and procedures they put in place. Should Postcomm believe that the policies and procedures are not sufficiently robust to enable the licensees to meet the mail integrity objectives, it could consider whether action under the licence was appropriate. Postcomm has, however, amended the wording such that the obligation to comply is "unless Postcomm agrees otherwise". Such a provision does provide some flexibility and would enable Postcomm, for example, to agree that certain action did not need to be taken by a licensee.

- 11.7. The decision to include the Code in the licence has meant that the licence provisions will have changed. Postcomm has concluded that the mail integrity objectives are better housed in the Code itself so that is a free standing document (albeit incorporated within the licence). The decision to bring the Code into the licence also means that there is no need to establish a change control process in the licence as the licence modification process in the Act applies. These changes are reflected in the proposed licence condition attached at Annex D.
- 11.8. The licence condition has also been amended to show the transition from existing licences where the current condition will run until the new condition come into effect on 1 January 2006.

**Summary**

- 11.9. Changes to the licence condition have been made as a result of Postcomm's decision to include the Code within the licence and for transitional purposes.

## 12. PROSECUTION POLICY

### *Introduction*

12.1. For ease of reference, the information on Postcomm's review of its prosecution policy, included in Chapter 13 of its May proposals document, is reproduced here.

### *Background*

12.2. Postcomm has a statutory duty to uphold section 6 of the Act in relation to operators conveying mail without a licence. It does not have an explicit statutory duty to investigate offences under section 83 and 84 of the Act, although it has been advised that it may do so. As set out earlier, Postcomm has decided that it should undertake such action in the interests of the postal industry. Royal Mail is an investigatory body operating to Home Office and ACPO standards and deals with all criminal incidents committed against its organisation, whether by people inside or outside the organisation, and instigates private prosecutions. Postcomm does not therefore undertake prosecutions for offences committed against Royal Mail.

12.3. Postcomm is aware of concerns that this position may mean that action under sections 83 and 84 of the Act may be being taken by Royal Mail on a different basis to that undertaken by Postcomm. Postcomm's aim is to ensure a level playing field in the competitive market, and it has, therefore, commissioned a review of its prosecution policy. This will look at various options for handling prosecutions and Postcomm expects to undertake a consultation on the outcome of this in the winter of 05/06. If Postcomm proposes to make any change to its prosecution policy then this may have an impact on the Code, particularly the section on reporting requirements. Postcomm would therefore expect to consult on any such changes alongside the consultation on its prosecution policy.

## ANNEX A: LIST OF RESPONDEES

- 1 Association of International Couriers and Express Services (AICES)
- 2 Communication Workers Union (CWU)
- 3 Direct Marketing Association (DMA)
- 4 Mail Competition Forum (MCF)
- 5 Mail Users' Association (MUA)
- 6 Postwatch
- 7 Regional Mail Services Ltd (RMS)
- 8 Royal Mail
- 9 UK Mail

## **ANNEX B: THE CODE**

This Annex contains the terms of the Code.

## Protecting the Integrity of Mail - A Code of Practice

Decision – 5 August 2005

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# Protecting the Integrity of Mail – A Code of Practice

## 1 Introduction

- 1.1 This is the Code of Practice covering the protection of the integrity of mail. Its purpose is to achieve the following objectives (the "**Mail Integrity Objectives**"):
- (a) minimising the exposure of Code Postal Packets to the risk of loss, theft, damage and/or interference; and
  - (b) maintaining and improving Licensees' performance in respect of the matters referred to in paragraph 1.1(a).
- 1.2 This Code sets out the requirements and procedures to be followed in order to satisfy the Mail Integrity Objectives.
- 1.3 This Code applies to:
- (a) all Licensees; and
  - (b) all Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by Licensees.
- 1.4 Licensees should allocate responsibility to specific personnel within their organisations for implementation of and compliance with this Code.
- 1.5 In meeting their obligations under this Code, Licensees should have due regard to the size and nature of their organisations and operations.

## 2 Some Definitions and Rules of Interpretation

- 2.1 In this Code, unless the context requires otherwise:

<b>Act</b>	means the Postal Services Act 2000 (as amended from time to time);
<b>Code Postal Packet</b>	means a Postal Packet conveyed pursuant to a Licence;
<b>damage</b>	means, in relation to a Code Postal Packet, any physical damage to a Code Postal Packet (other than damage caused by interference or accidental damage) occurring after the time of acceptance of that Code Postal Packet by the relevant Licensee and before its delivery to the person to whom or at the premises to which it is addressed;
<b>Incident Guidelines</b>	means guidelines published from time to time by Postcomm relating to the nature of incidents of loss or theft of, damage to, or interference with, Code Postal Packets, which require urgent notification to Postcomm;
<b>interference</b>	means interference with a Code Postal Packet contrary to sections 83 or 84 of the Act;
<b>Licensee</b>	means the holder of a licence granted under section 11 of the Act;

<b>Licence</b>	means a licence (as amended or replaced from time to time) granted under section 11 of the Act;
<b>loss</b>	means the physical loss of a Code Postal Packet, other than as a result of: <ul style="list-style-type: none"> <li>(a) having been stolen,</li> <li>(b) being incorrectly addressed,</li> </ul> at any time after the acceptance of that Code Postal Packet by the Licensee and before its delivery to the person to whom or at the premises to which it is addressed, and in relation to any Code Postal Packet shall be deemed to include a failure by the Licensee to deliver that Code Postal Packet within 15 working days of its due day of delivery;
<b>Mail Integrity Objectives</b>	means the mail integrity objectives set out in paragraph 1.1 of this Code;
<b>Postcomm</b>	means the Postal Services Commission established under section 1 of the Act;
<b>Postal Packet</b>	has the meaning given in the Act;
<b>Postwatch</b>	means the Consumer Council for Postal Services established under section 2 of the Act;
<b>Relevant Employees</b>	means permanent, temporary, casual or part time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling Code Postal Packets or who are reasonably likely to have access to Code Postal Packets in the course of their work;
<b>stolen/theft</b>	means misappropriated/misappropriation contrary to the Theft Act 1968 (as amended from time to time).

- 2.2 In this Code, unless the context requires otherwise, the words **include**, **including** and **in particular** are to be construed as being by way of illustration or emphasis and do not limit or prejudice the generality of any foregoing words. The singular includes the plural and vice versa.
- 2.3 Nothing in this Code is to be construed as requiring a Licensee to act unlawfully (for example, by breaching employment law in meeting the recruitment and vetting requirements set out in paragraph 3 of this Code).
- 2.4 This Code shall not be interpreted in any way which is inconsistent with the Mail Integrity Objectives.
- 2.5 Where this Code requires a policy to be established, that policy must be in writing and a copy must be given to the specific personnel within the Licensee's organisation who are responsible for implementation of and compliance with the policy.
- 2.6 Where this Code requires Licensees to allocate responsibility to specific personnel within their organisations to be responsible for implementation of and compliance with this Code (including any policy required by this Code), the personnel responsible for implementation may be different from those responsible for compliance.

### **3 Recruitment of Relevant Employees**

- 3.1 If a Licensee employs or uses (or intends to employ or use) Relevant Employees, the Licensee must:
- (a) establish, maintain and adhere to a recruitment policy in relation to the employment or use of Relevant Employees designed to facilitate the achievement of the Mail Integrity Objectives; and
  - (b) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that recruitment policy.
- 3.2 The recruitment policy should include:
- (a) an explanation of the jobs, roles or types of work, as the case may be, in respect of which the recruitment policy should apply;
  - (b) the types of information about a prospective Relevant Employee that the Licensee requires;
  - (c) the steps that the Licensee requires to be taken to satisfy itself of the identity of the prospective Relevant Employee;
  - (d) the steps which the Licensee expects to be taken in order to confirm a prospective Relevant Employee's work history over at least the immediately preceding 5 years (or the entire period of that Relevant Employee's working life, if that period is shorter than 5 years);
  - (e) a requirement for prospective Relevant Employees to declare any criminal convictions or any cautions or conditional discharges for offences relating to:
    - (i) Postal Packets; or
    - (ii) dishonest conduct generally (in particular, theft, obtaining property by deception or fraud)and guidelines on how any such convictions, cautions or conditional discharges declared by prospective Relevant Employees will be taken into consideration in deciding whether or not to employ the prospective Relevant Employee.
- 3.3 For the avoidance of doubt, in respect of any Licensee's existing permanent, temporary, casual or part-time employee or worker (including those under a contract for service) who is not (or might not be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling Code Postal Packets in the course of his or her work and who is to be redeployed such that he or she will (or might be) so involved, such redeployment should be treated for the purposes of this paragraph 3 as effectively the employment or use of that individual as a Relevant Employee and be subject to the other provisions of this paragraph 3.
- 3.4 Licensees must reasonably regularly monitor implementation of and compliance with the recruitment policy.
- 3.5 Licensees must reasonably regularly review the recruitment policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.

## **4 Training Relevant Employees**

- 4.1 If a Licensee employs or uses Relevant Employees, the Licensee must:
- (a) establish, maintain and adhere to a training policy that provides for Relevant Employees to receive initial and ongoing training so as to facilitate achievement of the Mail Integrity Objectives; and
  - (b) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that policy.
- 4.2 Without prejudice to the generality of paragraph 4.1, all Relevant Employees must be informed of the provisions of sections 83 and 84 of the Act and made aware of the seriousness of the offences detailed in those sections.
- 4.3 The training policy should include:
- (a) the levels of training required to facilitate achievement of the Mail Integrity Objectives;
  - (b) the levels of training required according to the differing responsibilities of, and work undertaken by, Relevant Employees in relation to Code Postal Packets;
  - (c) details of the minimum level of training required;
  - (d) an explanation of how the training will be provided;
  - (e) the frequency with which training should be provided; and
  - (f) details of how training is to be given, recorded and monitored.
- 4.4 Licensees must reasonably regularly monitor implementation of and compliance with the training policy.
- 4.5 Licensees must reasonably regularly review the training policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.

## **5 Disciplinary Procedures**

- 5.1 If a Licensee employs or uses Relevant Employees, the Licensee must:
- (a) make Relevant Employees aware of the standards of conduct in relation to facilitating achievement of the Mail Integrity Objectives the Licensee requires Relevant Employees to meet; and
  - (b) establish, maintain and adhere to a disciplinary policy in relation to the treatment of Relevant Employees who fail to meet the standards of conduct expected of them.
- 5.2 The standards of conduct and disciplinary policy should be such as to facilitate achievement of the Mail Integrity Objectives.
- 5.3 Licensees must allocate responsibility to specific personnel within their organisations for:
- (a) making Relevant Employees aware of the standards of conduct expected of them; and
  - (b) the implementation of and compliance with the disciplinary policy.
- 5.4 The disciplinary policy should include:

- (a) an explanation of what constitutes a failure to meet the standards of conduct and the action to be taken in relation to any failures;
- (b) an explanation of how the Licensee ensures that all Relevant Employees understand when a failure to meet the standards of conduct might also constitute a criminal offence and how this will be dealt with;
- (c) provision for appropriate records to be maintained detailing any action taken against Relevant Employees for failure to meet the standards of conduct; and
- (d) a process to identify consistent failure to meet the relevant standards of conduct and the taking of appropriate remedial action.

5.5 Licensees must reasonably regularly monitor implementation of and compliance with the:

- (a) standards of conduct; and
- (b) disciplinary policy.

5.6 Licensees must reasonably regularly review the:

- (a) standards of conduct; and
- (b) disciplinary policy

and, where necessary, update or amend the standards of conduct or disciplinary policy, as the case may be, to ensure that they continue to meet the Mail Integrity Objectives.

## **6 Security of Mail**

6.1 Notwithstanding the other requirements of this Code, Licensees must establish, maintain and adhere to such other policies and procedures as may reasonably be necessary to facilitate achievement of the Mail Integrity Objectives, in particular in relation to the security of relevant premises, and the use of vehicles and equipment in the collection, conveyance or delivery of Code Postal Packets.

6.2 Licensees must allocate responsibility to specific personnel within their organisations for the implementation of and compliance with the policies and procedures specified in paragraph 6.1.

6.3 The policies and procedures should include:

- (a) regular risk assessment;
- (b) the maintenance of records so that Licensees can identify, as far as is reasonably practicable, which Relevant Employees were responsible for the conveyance, receipt, collection, sortation, delivery or handling of specific Code Postal Packets that have been interfered with; and
- (c) the measures to be taken, including monitoring, to prevent or detect loss or theft of, damage to, or interference with, Code Postal Packets from or at premises, vehicles or equipment.

6.4 Licensees must reasonably regularly review the policies and procedures and, where necessary, update or amend those policies and procedures to ensure that they continue to meet the Mail Integrity Objectives.

## **7 Information and Reporting Requirements**

- 7.1 All incidents of loss or theft of, damage to, or interference with Code Postal Packets must be recorded in reasonable detail.
- 7.2 Without prejudice to the generality of paragraph 7.1, information to be recorded in relation to "Serious Incidents" for the purposes of the Incident Guidelines includes:
- (a) the date, time and place of the incident;
  - (b) the number of (or where the precise number is not known, a reasonable estimate of the number of) Code Postal Packets the subject of the incident;
  - (c) as far as is reasonably practicable, the Relevant Employees involved in the conveyance, receipt, collection, sortation, delivery or handling, as the case may be, of the Code Postal Packets the subject of the incident; and
  - (d) any other particulars relating to the incident which it would be reasonable to record, including the factual circumstances in which the incident occurred.
- 7.3 Incidents which constitute "Serious Incidents" for the purposes of the Incident Guidelines (together with details of the date, time and place of the incident and the number of, or a reasonable estimate of the number of, Code Postal Packets the subject of the incident) are to be reported to Postcomm as soon as reasonably practicable and, in any event, within 48 hours of the Licensee becoming aware of their occurrence. The information required to be recorded in accordance with paragraphs 7.2(c) and 7.2(d) and any other information in relation to the incident that Postcomm may require should be reported to Postcomm as soon as reasonably practicable.
- 7.4 In respect of each period of three months in any year (each year ending on 31 March), each Licensee must submit to Postcomm (as soon as reasonably practicable, and in any event within 28 days, after the end of each such period) a report detailing any prosecutions which that Licensee has instigated in the relevant period and provide such information in relation to any relevant incident and prosecution that Postcomm may require.
- 7.5 Licensees must reasonably regularly review the information recorded under this paragraph 7 with a view to identifying any trends, patterns or other notable features (such as above average incident levels at certain premises).
- 7.6 Licensees must submit to Postcomm and Postwatch annual reports not later than 3 months from the end of the year (being 31 March) to which those reports relate, which include:
- (a) the number of (or where precise numbers are not known, reasonable estimates of the numbers of) Code Postal Packets during the relevant year which were lost, stolen, damaged or interfered with; and
  - (b) details of any trends, patterns or other notable features (such as above average incident levels at certain premises) in relation to the incidence of loss or theft of, damage to, or interference with, Code Postal Packets.
- 7.7 Licensees must also submit to Postcomm and Postwatch with each annual report submitted under paragraph 7.5, a statement of the measures that the Licensee intends to take to remedy any failures or patterns of failure to achieve the Mail Integrity Objectives and to reduce the numbers of Code Postal Packets lost, stolen, damaged or interfered with.
- 7.8 Licensees must allocate responsibility to specific personnel within their organisations for meeting the recording, reporting and other requirements of this paragraph 7.

## **8 Agents and Sub-Contractors**

8.1 Each Licensee shall ensure that, so far as is reasonably practicable, all of:

- (a) its franchisees, agents or sub-contractors (if any) who are involved in the conveyance, receipt, collection, sortation, delivery or handling of Code Postal Packets, comply with this Code as if this Code applied to the franchisee, agent or sub-contractor; and
- (b) its agents or sub-contractors (if any) who are responsible for providing Relevant Employees to work for the Licensee, comply with this Code as if this Code applied to such agent or sub-contractor.

8.2 Where the franchisee, agent or sub-contractor is a Licensee, it shall be sufficient for the Licensee which lets the franchise, appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of this Code to that Licensee in fulfilment of its obligations under paragraph 8.1(a).

## **ANNEX C: THE CODE (Amendments marked)**

This Annex contains a copy of the Code which is marked up to show amendments from the version which was consulted on.

## Protecting the Integrity of Mail - A Code of Practice

Consultation Decision – ~~18 March~~ 5 August 2005

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# Protecting the Integrity of Mail – A Code of Practice

## 1 Introduction

1.1 This is the Code of Practice covering the protection of the integrity of mail. Its purpose is to achieve the following objectives (the "Mail Integrity Objectives. The"):

(a) minimising the exposure of Code Postal Packets to the risk of loss, theft, damage and/or interference; and

(b) maintaining and improving Licensees' performance in respect of the matters referred to in paragraph 1.1(a).

1.2 This Code sets out the requirements and procedures to be followed in order to satisfy these objectives the Mail Integrity Objectives.

1.3 1.2 This Code applies to:

(a) all Licensees; and

(b) all Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by Licensees.

~~1.3 This Code may only be changed in accordance with the procedures set out in the Licences.~~

1.4 Licensees should allocate responsibility to specific personnel within their organisations for implementation of and compliance with this Code.

1.5 In meeting their obligations under this Code, Licensees ~~must~~should have due regard to the size and nature of their organisations and operations.

## 2 Some Definitions and Rules of Interpretation

2.1 In this Code, unless the context requires otherwise:

**Act** means the Postal Services Act 2000 (as amended from time to time);

**Code Postal Packet** means a Postal Packet conveyed pursuant to a Licence;

**damage** means, in relation to a Code Postal Packet, any physical damage to a Code Postal Packet (other than damage caused by interference or accidental damage) occurring after the time of acceptance of that Code Postal Packet by the relevant Licensee and before its delivery to the person to whom or at the premises to which it is addressed;

**Incident Guidelines** means guidelines published from time to time by Postcomm relating to the nature of incidents of loss or theft of, damage to, or interference with, Code Postal Packets, which require urgent notification to Postcomm;

**interference** means interference with a Code Postal Packet contrary to sections 83 or 84 of the Act;

**Licensee** means the holder of a licence granted under section 11 of

the Act;

**Licence** means a licence (as amended or replaced from time to time) granted under section 11 of the Act;

**loss** means the physical loss of a [Code](#) Postal Packet, other than as a result of:

(a) having been stolen,

(b) being incorrectly addressed,

at any time after the acceptance of that [Code](#) Postal Packet by the Licensee and before its delivery to the person to whom or at the premises to which it is addressed, and in relation to any [Code](#) Postal Packet shall be deemed to include a failure by the Licensee to deliver that [Code](#) Postal Packet within 15 working days of its due day of delivery;

**Mail Integrity Objectives** means the mail integrity objectives set out in ~~each~~ [Licensee's Licence paragraph 1.1 of this Code](#);

**Postcomm** means the Postal Services Commission established under section 1 of the Act;

**Postal Packet** has the meaning given in the Act;

**Postwatch** means the Consumer Council for Postal Services established under section 2 of the Act;

**Relevant Employees** means permanent, temporary, casual or part time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling [Code](#) Postal Packets or who are reasonably likely to have access to [Code](#) Postal Packets in the course of their work;

**stolen/theft** means misappropriated/misappropriation contrary to the Theft Act 1968 (as amended from time to time).

2.2 In this Code, unless the context requires otherwise, the words **include**, **including** and **in particular** are to be construed as being by way of illustration or emphasis and do not limit or prejudice the generality of any foregoing words. The singular includes the plural and vice versa.

2.3 Nothing in this Code is to be construed as requiring a Licensee to act unlawfully (for example, by breaching employment law in meeting the recruitment and vetting requirements set out in paragraph 3 of this Code).

2.4 This Code shall not be interpreted in any way which is inconsistent with the Mail Integrity Objectives.

2.5 Where this Code requires a policy to be established, that policy must be in writing and a copy must be given to the specific personnel within the Licensee's organisation who are responsible for implementation of and compliance with the policy.

[2.6](#) [Where this Code requires Licensees to allocate responsibility to specific personnel within their organisations to be responsible for implementation of and compliance with this Code](#)

(including any policy required by this Code), the personnel responsible for implementation may be different from those responsible for compliance.

### **3 Recruitment of Relevant Employees**

3.1 If a Licensee employs or uses (or intends to employ or use) Relevant Employees, the Licensee must:

- (a) establish, maintain and adhere to a recruitment policy in relation to the employment or use of Relevant Employees designed to facilitate the achievement of the Mail Integrity Objectives; and
- (b) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that recruitment policy.

3.2 The recruitment policy should include:

- (a) an explanation of the jobs, roles or types of work, as the case may be, in respect of which the recruitment policy should apply;
- (b) the types of information about a prospective Relevant Employee that the Licensee requires;
- (c) the steps that the Licensee requires to be taken to satisfy itself of the identity of the prospective Relevant Employee;
- (d) the steps which the Licensee expects to be taken in order to confirm a prospective Relevant Employee's work history over at least the immediately preceding 5 years (or the entire period of at that Relevant Employee's working life, if that period is shorter than 5 years); ~~and~~
- (e) a requirement for prospective Relevant Employees to declare any criminal convictions or any cautions or conditional discharges for offences relating to:
  - (i) Postal Packets; or
  - (ii) dishonest conduct generally (in particular, theft, obtaining property by deception or fraud)

and guidelines on how any such convictions, cautions or conditional discharges declared by prospective Relevant Employees will be ~~assessed and~~ taken into consideration in deciding whether or not to employ the prospective Relevant Employee.

3.3 For the avoidance of doubt, in respect of any Licensee's existing permanent, temporary, casual or part-time employee or worker (including those under a contract for service) who is not (or might not be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling Code Postal Packets in the course of his or her work and who is to be redeployed such that he or she will (or might be) so involved, such redeployment should be treated for the purposes of this paragraph 3 as effectively the employment or use of that individual as a Relevant Employee and be subject to the other provisions of this paragraph 3.

3.4 ~~3.3~~ Licensees must reasonably regularly monitor implementation of and compliance with the recruitment policy.

3.5 ~~3.4~~ Licensees must reasonably regularly review the recruitment policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.

## **4 Training Relevant Employees**

- 4.1 If a Licensee employs or uses Relevant Employees, the Licensee must:
- (a) establish, maintain and adhere to a training policy that provides for Relevant Employees to receive initial and ongoing training so as to facilitate achievement of the Mail Integrity Objectives; and
  - (b) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that policy.
- 4.2 Without prejudice to the generality of paragraph 4.1, all Relevant Employees must be informed of the provisions of sections 83 and 84 of the Act and made aware of the seriousness of the offences detailed in those sections.
- 4.3 The training policy should include:
- (a) the levels of training required to facilitate achievement of the Mail Integrity Objectives;
  - (b) the levels of training required according to the differing responsibilities of, and work undertaken by, Relevant Employees in relation to [Code](#) Postal Packets;
  - (c) details of the minimum level of training required;
  - (d) an explanation of how the training will be provided;
  - (e) the frequency with which training should be provided; and
  - (f) details of how training is to be given, recorded and monitored.
- 4.4 Licensees must reasonably regularly monitor implementation of and compliance with the training policy.
- 4.5 Licensees must reasonably regularly review the training policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.

## **5 Disciplinary Procedures**

- 5.1 If a Licensee employs or uses Relevant Employees, the Licensee must:
- (a) make Relevant Employees aware of the standards of conduct in relation to facilitating achievement of the Mail Integrity Objectives the Licensee requires Relevant Employees to meet; and
  - (b) establish, maintain and adhere to a disciplinary policy in relation to the treatment of Relevant Employees who fail to meet the standards of conduct expected of them.
- 5.2 The standards of conduct and disciplinary policy should be such as to facilitate achievement of the Mail Integrity Objectives.
- 5.3 Licensees must allocate responsibility to specific personnel within their organisations for:
- (a) making Relevant Employees aware of the standards of conduct expected of them; and
  - (b) the implementation of and compliance with the disciplinary policy.
- 5.4 The disciplinary policy should include:

- (a) an explanation of what constitutes a failure to meet the standards of conduct and the action to be taken in relation to any failures;
- (b) an explanation of how the Licensee ensures that all Relevant Employees understand when a failure to meet the standards of conduct might also constitute a criminal offence and how this will be dealt with;
- (c) provision for appropriate records to be maintained detailing any action taken against Relevant Employees for failure to meet the standards of conduct; and
- (d) a process to identify consistent failure to meet the relevant standards of conduct and the taking of appropriate remedial action.

5.5 Licensees must reasonably regularly monitor implementation of and compliance with the:

- (a) standards of conduct; and
- (b) disciplinary policy.

5.6 Licensees must reasonably regularly review the:

- (a) standards of conduct; and
- (b) disciplinary policy

and, where necessary, update or amend the standards of conduct or disciplinary policy, as the case may be, to ensure that they continue to meet the Mail Integrity Objectives.

## 6 Security of Mail

6.1 Notwithstanding the other requirements of this Code, Licensees must establish, maintain and adhere to such other policies and procedures as may reasonably be necessary to facilitate achievement of the Mail Integrity Objectives, in particular in relation to the security of relevant premises, and the use of vehicles and equipment in the collection, conveyance or delivery of [Code](#) Postal Packets.

6.2 Licensees must allocate responsibility to specific personnel within their organisations for the implementation of and compliance with the policies and procedures specified in paragraph 6.1.

6.3 The policies and procedures should include:

- (a) regular risk assessment;
- (b) the maintenance of records [detailing so that Licensees can identify, as far as is reasonably practicable,](#) which Relevant Employees [in each case](#) were responsible for the conveyance, receipt, collection, sortation, delivery or handling of specific [Code](#) Postal Packets [that have been interfered with](#); and
- (c) the measures to be taken, including monitoring, to prevent [or detect](#) loss or theft of, damage to, or interference with, [Code](#) Postal Packets from or at premises, vehicles or equipment.

[6.4 Licensees must reasonably regularly review the policies and procedures and, where necessary, update or amend those policies and procedures to ensure that they continue to meet the Mail Integrity Objectives.](#)

## 7 Information and Reporting Requirements

- 7.1 All incidents of loss or theft of, damage to, or interference with [Code](#) Postal Packets must be recorded in reasonable detail.
- 7.2 Without prejudice to the generality of paragraph 7.1, information to be recorded in relation to "Serious Incidents" for the purposes of the Incident Guidelines includes:
- (a) the date, time and place of the incident;
  - (b) the number of (or where the precise number is not known, a reasonable estimate of the number of) [Code](#) Postal Packets the subject of the incident;
  - (c) as far as is reasonably practicable, the Relevant Employees involved in the conveyance, receipt, collection, sortation, delivery or handling, as the case may be, of the [Code](#) Postal Packets the subject of the incident; and
  - (d) any other particulars relating to the incident which it would be reasonable to record, including the factual circumstances in which the incident occurred.
- 7.3 Incidents which constitute "Serious Incidents" for the purposes of the Incident Guidelines (together with details of the date, time and place of the incident and the number of, or a reasonable estimate of the number of, [Code](#) Postal Packets the subject of the incident) are to be reported to Postcomm as soon as reasonably practicable and, in any event, within 48 hours of the Licensee becoming aware of their occurrence. The information required to be recorded in accordance with paragraphs 7.2(c) and 7.2(d) and any other information in relation to the incident that Postcomm may require should be reported to Postcomm as soon as reasonably practicable.
- 7.4 ~~If a Licensee decides to instigate a prosecution in relation to any incident, it shall notify Postcomm immediately.~~ In respect of each period of three months in any year (each year ending on 31 March), each Licensee must submit to Postcomm (as soon as reasonably practicable, and in any event within 28 days, after the end of each such period) a report detailing any prosecutions which that Licensee has instigated in the relevant period and provide such information in relation to ~~the~~any relevant incident and prosecution that Postcomm may require.
- 7.5 Licensees must reasonably regularly review the information recorded under this paragraph 7 with a view to identifying any trends, patterns or other notable features (such as above average incident levels at certain premises).
- 7.6 Licensees must submit to Postcomm and Postwatch annual reports not later than 3 months from the end of the year (being 31 March) to which those reports relate, which include:
- (a) the number of (or where precise numbers are not known, reasonable estimates of the numbers of) [Code](#) Postal Packets during the relevant year which were lost, stolen, damaged or interfered with; and
  - (b) details of any trends, patterns or other notable features (such as above average incident levels at certain premises) in relation to the incidence of loss or theft of, damage to, or interference with, [Code](#) Postal Packets.
- 7.7 ~~Licencees~~Licensees must also submit to Postcomm and Postwatch with each annual report submitted under paragraph 7.5, a statement of the measures that the Licensee intends to take to remedy any failures or patterns of failure to achieve the Mail Integrity Objectives and to reduce the numbers of [Code](#) Postal Packets lost, stolen, damaged or interfered with.
- 7.8 Licensees must allocate responsibility to specific personnel within their organisations for meeting the recording, reporting and other requirements of this paragraph 7.

## 8 Agents and Sub-Contractors

8.1 Each Licensee shall ensure that, so far as is reasonably practicable, all of:

- (a) ~~8.1 Each Licensee shall take all reasonable steps to ensure that all of~~ its franchisees, agents or sub-contractors (if any) who are involved in the conveyance, receipt, collection, sortation, delivery or handling of Code Postal Packets, comply with this Code as if this Code applied to the franchisee, agent or sub-contractor; and
- (b) ~~its agents or sub-contractors (if any) who are responsible for providing Relevant Employees to work for the Licensee, comply with this Code as if this Code applied to such agent or sub-contractor.~~

8.2 Where the franchisee, agent or sub-contractor is a Licensee, it shall be sufficient for the Licensee which lets the franchise, appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of this Code to that Licensee in fulfilment of its obligations under paragraph 8-4-8.1(a).

## ANNEX D: LICENCE CONDITION

## MAIL INTEGRITY LICENCE CONDITION

### **Mail Integrity**

1. Paragraphs 2 to 3 shall apply from 1 January 2006.
2. In this condition –
  - (a) the “Mail Integrity Code” means the code of practice set out in the Annex to this Condition established for the purposes of facilitating the achievement of the Mail Integrity Objectives, and
  - (b) the “Mail Integrity Objectives” means the objectives set out in paragraph 1.1 of the Mail Integrity Code.
3. Unless Postcomm otherwise consents, the licensee shall at all times comply with the Mail Integrity Code.

### **ANNEX**

#### **The Mail Integrity Code**

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Rider to be inserted at the start of the current Condition 5 of the licence

1. Paragraphs 4 to 13 shall apply until 1 January 2006.  
[Following paragraphs to be renumbered.]

## **ANNEX E: GUIDANCE ON REPORTING REQUIREMENTS**

This Annex is reproduced as consulted on, for ease of reference only. It is still subject to discussion with stakeholders.

## POSTCOMM REPORTING GUIDELINES FOR 'SERIOUS' INCIDENTS

The following reporting guidelines should be read in conjunction with paragraphs 7.2 and 7.3 of "Protecting the integrity of Mail – A Code of Practice" (the Code). This note is intended as a guide for the reporting of mail integrity incidents to Postcomm and sets out the criteria for determining whether an incident should be regarded as 'serious' for the purposes of paragraphs 7.2 and 7.3 of the Code.

Where licensees do not take out prosecutions under Sections 83 or 84 of the Postal Services Act 2000, an incident will qualify as a 'serious' incident if:

1. The percentage of mail interfered with (intentionally delayed or intentionally opened) lost, stolen or damaged exceeds 15% of the total volume of mail handled by an individual that day.
2. The criteria in 1 above are not met, but there is reason to believe that the same individual has interfered with, lost, stolen or damaged the mail on at least one previous occasion.