

**Responses to Postcomm’s document on “Complaint handling standards for licensed postal operators – a consultation document, January 2008”**

Contents

British and Irish Ombudsman Association (BIOA) response .....	2
Consumer Direct response .....	5
Her Majesty’s Revenue and Customs (HMRC) response .....	7
Mail Competition Forum (MCF) response .....	10
Mail Users Association (MUA) response to complaint handling <b>and</b> redress scheme criteria consultations.....	12
New National Consumer Council (NCC) start-up team response .....	14

## British and Irish Ombudsman Association (BIOA) response

By way of introduction, it may be helpful to give a brief history and outline of BIOA.

In 1991 a conference of Ombudsmen from both the public and private sectors was held, at which it was agreed to set up an association for Ombudsmen, other complaint handling bodies and individuals or bodies (such as academic institutions or consumer organisations) interested in the work of Ombudsmen. BIOA came into being in 1993, originally as the United Kingdom Ombudsman Association but then adopted its present name a year later when membership was extended to include Ombudsmen and complaint-handling organisations from the Republic of Ireland.

The objectives of BIOA are to:

- encourage, develop and safeguard the role and title of Ombudsmen in both the public and private sectors
- define, publish and keep under review criteria for the recognition of Ombudsman offices by the Association
- accord recognition publicly to those persons or offices in the United Kingdom and its dependent territories, the Channel Islands, the Isle of Man, and the Republic of Ireland who satisfy the defined criteria for recognition
- formulate and promote standards of best practice to be met by Ombudsmen in the performance of their duties
- hold meetings, conferences and seminars, publish information and engage in all such other activities as may improve public awareness of recognised Ombudsman schemes and encourage their efficiency and effectiveness

### **Criteria for recognition of ombudsmen schemes**

BIOA is, of course, responding separately to your other consultation document concerned with criteria for the approval of redress schemes in postal services. For that reason, no mention of BIOA's criteria for full (Voting) membership of the Association is made here.

## **Complaint handling standards**

We are very pleased to note the reference in the consultation paper to BIOA's 'Guide to principles of good complaint handling' as an example of best practice (Chapter 2), and also that these principles appear to have been taken into account in your high-level framework proposals for complaint handling standards for licensed postal operators (Chapter 3).

Although your proposals refer to the internal complaints procedures of licensed operators, rather than to 'escalated complaint handling' – ie redress schemes - (which was what the 'Guide' was intended for), we would nevertheless recommend the adoption in full of these principles, as set out in the 'Guide', being:

- clarity of purpose
- accessibility
- flexibility
- openness and transparency
- proportionality
- efficiency
- quality outcomes

We feel that the principles for internal complaint handling are broadly the same as for escalated complaint handling. The full 'Guide' is available to view or download free on the BIOA website ([www.bioa.org.uk](http://www.bioa.org.uk)) under 'BIOA publications', and printed copies are available, also free of charge, from me on request.

## **Responses to the questions**

Particularly as your proposals do not refer to redress schemes, we feel that rather than respond individually to the questions in Chapter 4, we would prefer to make the following comments/observations on the proposed high-level framework for complaint handling standards:

- we agree in principle that a high-level framework is probably a more preferable approach than prescribed detailed procedures
- although not directly of concern to BIOA, we cannot see how complaints from senders that do not have a contact with a postal operator, or complaints with no evidence base, can be dealt with effectively
- the framework makes no mention of proportionality, which is one of BIOA's principles for redress schemes, and we would have thought also appropriate for internal complaints handling

## **Conclusion**

Finally, you are aware that BIOA does have a very active role and objective of providing advice to organisations (including to government departments) considering the establishment of ombudsman services. Further guidance, including the detailed criteria for recognition of ombudsman schemes, is available on the Association's website ([www.bioa.org.uk](http://www.bioa.org.uk)).

I hope this response is useful to you in your consultation on consumer representation and redress. Please contact me if you have any questions or queries relating to either this response or to any other aspect of the British and Irish Ombudsman Association.

## Consumer Direct response

### **Background**

Consumer Direct (CD) is a telephone and on line advice service offering clear practical consumer advice. The BERR consultation paper, Strengthening and Streamlining Consumer Advocacy, envisaged that CD would take on the complaints handling functions of Energywatch and Postwatch in order to free up the new NCC to deal with policy issues. Although there is an expectation that the licensed postal operators will improve their complaint handling, there will always be those customers who, while not considered to be vulnerable, will still need some help with sorting out their problems. CD's role in the new structure will be key to ensuring that consumers get the help they need and in monitoring the operator's complaints processes through the information collected from consumer complaints.

We are therefore very disappointed to find that CD's role has not been acknowledged in the consultation paper.

### **General comments**

We understand the need for a "light touch" to regulation in a competitive market but, while postal services aspire to a competitive market, we are not convinced that aspiration has yet been achieved. In a market where "Royal Mail is still the dominant operator .... still retains well over 90% of the UK addressed letter market and still delivers more than 99% of all mail in the UK", in our view, consumer protection should be more than light touch. With the loss of Postwatch, consumers will need a safety net to help them to negotiate their way through often complex complaints systems which typically have three or four stages before they are eligible to go to a redress scheme. Although the redress scheme will exist, it has to be the aspiration of all in the industry to resolve issues before they get that far. If the standards are to remain "light touch", CD's role in consumer advice needs to be emphasised much more in the standards. At the very least, the proposed high level framework should include a requirement to tell consumers about CD. There should also be a specific reference to the fact that Postcomm will look at complaints to CD as part of their monitoring process.

### **Detail**

1.10 and 1.11

There needs to be recognition here that CD can be part of the complaints handling process if the consumer wants an independent source of advice.

2.11

Emphasises that the complaints procedure should be “well publicised” therefore CD should be highly prominent within any such publicising as a route to obtain independent advice.

2.12

Postcomm’s complaint handling standards should be similar to those of Ofgem where possible to encourage consistency.

3.6 to 3.8

There is an opportunity here for licensed postal operators to draw CD’s existence to the attention of vulnerable consumers.

3.18

This is an ideal place to put in a requirement for the licensed postal operators to bring CD’s role to the attention of consumers. Without such a requirement, there is a major risk that consumers will not receive the help they need and that a failure in handling consumer complaints will not be highlighted.

3.22 and 3.24

It would be useful to acknowledge the role of information provided by CD in monitoring the standard of complaint handling.

## **Questions**

4.1 Do you agree with Postcomm’s proposal to introduce a high level framework of principles rather than prescribe detailed procedures for complaint handling regulations?

High level principles are appropriate when there is an advocacy body in place to look after consumer’s interests. Since this will not be the case, consumers need more protection and, therefore, more detailed complaint handling standards. Postcomm needs to publish a more detailed standard for consultation before putting the standards in place. With this in mind, we do not believe it is appropriate to comment on the current high level framework.

## Her Majesty's Revenue and Customs (HMRC) response

### **HMRC Background**

Her Majesty's Revenue and Customs (HMRC) is a new Government Department that was created in April 2005 and which brought together the functions of HM Customs and Excise and the Inland Revenue.

HMRC employs approximately 85,000 people, about a fifth of the entire Civil Service. Our responsibilities include:

- Income, Corporation, Capital Gains, Inheritance, Insurance Premium, Stamp, Land and Petroleum Revenue Taxes
- VAT, Excise Duties, Customs Duties and frontier protection
- Environmental taxes: climate change and aggregates levy and landfill tax
- National Insurance
- Tax Credits
- Child Benefit and the Child Trust Fund
- Enforcement of the National Minimum Wage
- Recovery of Student Loan Repayments

Additional general information about HMRC can be found on our website [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### **HMRC Mail Profile**

- HMRC annually spends £77m with Royal Mail, (total postal expenditure £81m) and dispatches 320 million items of mail.
- HMRC are currently Royal Mail's biggest retail customer.
- Approximately 50% of HMRC's mail output is processed by our output supplier Fujitsu from four main sites. The remaining mail is despatched from 200 post rooms serving 600 network offices.
- From the total mail output, approximately 50% receives a mailsort discount.

### **HMRC Response**

***4.1 Do you agree with Postcomm's proposal to introduce a high level framework of principles rather than prescribe detailed procedures for complaint handling regulations? Please explain your answer.***

Yes, although this does not directly affect HMRC as we are a bulk retail customer of Royal Mail and UK Mail (although we could be drawn into individual complaints about mail services).

This proposal seems eminently sensible providing a necessary high level framework, without burdening licence holders with detailed procedures, which should facilitate continued and new competition in the postal market.

**4.2 Do you agree with Postcomm’s proposed high level framework for complaint handling standards? If you do not agree with one or more of the principles, please state which one and why.**

Yes, HMRC have no objection to any of the principles proposed in Chapter 3 (3.17). HMRC would be interested to see if in practice these principles would be amended in any way for Royal Mail as the only Universal Service provider. Without diluting the thrust of the principles it may be necessary to require slightly different compliance from Royal Mail, to facilitate a level playing field, as their level of complaints are likely to be higher than other licence holders, with their business focus being much more upstream than other licence holders.

We suggest a sampling mechanism be introduced by which Postcomm could validate the licence holder’s performance in complaint handling each year.

**4.3 Are any changes required to the wording of the high level principles? Please explain any changes you would suggest.**

HMRC thinks there would be benefit to the postal market in general, if at point (xv) “commitment to publish” was replaced by “requirement to publish, within a given timeframe” as this would engender real openness and competition in the wider postal market.

**4.4 What if any, other principles should be included in the complaint handling regulations? Please explain.**

HMRC consider the high level principles sufficient and without need of addition.

**4.5 Are the principles clear and understandable? If not please suggest how clarity and ease of use could be improved.**

There is a degree of implied ambiguity in some of the principles notably (VII, X, XI, XII, XIV, XV) mainly around processes and reviews, whilst it may be Postcomm’s intention to allow licence holders this leeway, consideration should be given to tightening the wording and expanding the requirements around processes and reviews in any forthcoming statutory instrument.

**4.6 Do you consider the principle in relation to vulnerable customers to be sufficient to ensure that licensed postal operators take into account the reasonable needs of these customers and provide them with appropriate assistance when required? Please explain your answer.**

As mentioned above in our answer to 4.5, tightening of the wording, and expanding the requirements may be required for any forthcoming statutory instrument, in this particular instance (XI). As this potentially a contentious area

expanding the licence holders requirement may be an essential guide to them in heading off many potential complaints.

***4.7 Do you agree with Postcomm's proposal on the review and modification process for the complaints handling regulations? Please explain your answer.***

Yes. HMRC considers this essential; it may also be useful to seek the views of the licence holders for their experience of the new complaints handling standards.

***4.8 Are there any other examples of best practice that Postcomm should be made aware of before it finalises the complaint handling regulations.***

Specifically no, although HMRC's complaints procedure is detailed on our website and Commercial Directorate would be happy to facilitate contact with our Complaints and Adjudication Team should that be required.

## Mail Competition Forum (MCF) response

1. The Mail Competition Forum (MCF) welcomes the opportunity to comment on Postcomm's consultation document, dated January 2008, concerning Complaint Handling Standards for Licensed Postal Operators.
2. Current membership of the MCF consists of Citipost AMP Ltd, City Link Ltd, DHL Global Mail (DHL), DX Network Services (DX), Racer Consultancy Management Services Ltd (Racer), Secure Mail Services (SMS), TNT Post UK Ltd (TNT) and UK Mail Ltd (UK Mail).
3. We believe that Postcomm has misrepresented the structure of the UK mail market in paragraph 2.5 ("Royal Mail.....delivers more than 99% of all mail in the UK"). What about all the unlicensed mail that is subject to specific exemptions in the Postal services Act 2000, or that falls outside the licensed area? It would be more accurate to say, "Royal Mail delivers more than 99% of licensed mail in the UK".
4. We note that Postcomm considers that the current licence requirements for complaint handling have been effective to date and that it would be appropriate to use these requirements as a basis for new complaint handling regulations. We would concur with this view.
5. We further note Postcomm's desire to minimize any potential adverse impact on competition arising from the administration of complaint handling schemes. However we would urge Postcomm to pay particular attention to the need to ensure that new entrants establish and operate suitable schemes in order to prevent the market falling into disrepute.
6. Postcomm says in 3.16 that the complaint handling regulations should also apply to delivery-related complaints from all recipients of mail. In order to transpose this wish into the complaint handling procedure, 3.18(iv) should read something like:

*...apply to complaints from all recipients relating to the delivery of licensed mail*

While this may appear to be an insignificant change, we do feel that Postcomm should not lose sight that the new legislation only applies to licensed items, and not mail in its widest sense.

7. Although we acknowledge Postcomm's desire to avoid detailed prescription of complaint handling procedures, we do believe that Postcomm will have to provide guidance about the publication requirements, as mentioned in 3.18(vii). Would this be via marketing literature, web-site, or do Postcomm have something else in mind? While

accepting that such information should be readily accessible to customers, our preferred approach to publication is that it should be easily manageable for all operators, irrespective of size. This may be a point worthy of discussion at the Redress Working Group, or at the next MCF meeting.

8. Furthermore, the obligation in 3.18(xv) to *publish* an annual complaints report might be unduly onerous for many smaller operators without further guidance about its content and the way in which it should be published. We would also question why complaints have to be “broken down by no less than ten main categories of complaint where relevant”. This does appear to be over prescriptive, as different companies will have different means of categorizing complaints. It may make sense to request that complaints about lost mail are differentiated from those relating to damaged items, and both in turn are separately identified from those pertaining to delay. However beyond that we believe that Postcomm should allow companies discretion to use their own, familiar classifications. After all, if Postcomm believe that current arrangements have been effective, why should there be any change?

## Mail Users Association (MUA) response to complaint handling and redress scheme criteria consultations

1. MUA would wish to thank Postcomm for the opportunity to respond to its two consultations on 'Complaint Handling Standards for Licensed Postal Operators' and 'Criteria for the Approval of Redress Schemes in Postal Services'. Whilst these two consultations do not directly influence core activities of larger business mailers (whose recourse in the resolution of disputes is generally taken via the terms of written contracts held with postal operators), MUA clearly recognises the importance of having appropriate complaint handling procedures and redress scheme(s) in place.
2. Not only do such procedures protect the interests of business mailers' own client bases (i.e receiving customers), but they also support SME's who without contractual arrangements, may lack the commercial clout to resolve problems directly with postal operators. With this in mind, MUA would wish to make the following comments concerning the proposals put forward by Postcomm for future complaints handling standards:
  - MUA fully supports Postcomm in its premise that the way in which a new entrant may choose to handle complaints offers a competitive lever with which a postal operator may choose to differentiate itself from the competition, and it is therefore important that any regulation is kept to the minimum appropriate requirements.
  - On this basis, members would generally support Postcomm's proposed approach to developing a high-level framework which the Regulator would expect licensees to follow as a minimum in their complaint handling procedures, but below which they are then at liberty to diversify in order to develop unique selling propositions.
  - This having been said however, members are confused as to how the majority of postal operators will construct a regular review process of their complaint handling procedures 'and seek feedback from their customers and other relevant parties'<sup>1</sup>, when a) their customers are probably large business mailers (to whom the complaints handling procedures are not relevant anyway), or b) the receiving customers to whom the mail is being delivered are actually the customers of the sending company, not the end-to-end postal operator responsible for delivering their mail.
  - MUA would also recommend that Postcomm elects to review the appropriateness of the high level framework of principles at the end of Year One, taking into account the experiences of customers and licensed postal operators, and then from then on, carry out this exercise every three years.

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<sup>1</sup> Postcomm Consultation Document 'Complaint Handling Standards for Licensed Postal Operators' Page 19 Para 3.21

This will ensure any immediately obvious bedding in problems can be dealt with relatively quickly.

3. Turning to Regulator's proposed criteria for Postcomm's approval of a redress scheme, business mailers would wish to make a number of observations. The first and foremost is that whilst members recognise the need for redress arrangements to be in place (not least of all to adhere to the letter of the Law), it is clear to business mailers that the cost of setting up and maintaining an effective ombudsmen redress scheme may be considerable, and it is therefore important that this in itself does not become a barrier to market entry.
4. Furthermore, it is the customer who will ultimately have to pick up the tab for the cost of financing an ombudsman through the price of their mailing activity, and therefore any proposals going forward needs to be proportionate both in terms of a) the cost of the service a customer is seeking redress for, and b) the value postal operators and commercial customers gets from it. Otherwise, it could be argued that any over-engineering of a redress scheme will again, ultimately indirectly act as an incentive to drive business mailing activity towards other forms of electronic media.
5. Finally, MUA would wish to raise a small but nevertheless relevant point, concerning misuse of any redress scheme. Members consider it would be a good idea to publish a clear statement of the implications for misuse of complaints handling or redress schemes by members of the general public.

## New National Consumer Council (NCC) start-up team response

The new National Consumer Council is keen to ensure that all consumers receive a high level of service and that appropriate arrangements are in place to deal with any complaints. Creation of effective Complaint Handling Standards will be essential to the operation of the new arrangements for consumer advocacy and representation.

We are concerned that the results of the consumer survey shown in paragraph 2.18 of your document which indicate that less than one third of those consumers who have complained are satisfied with the way that their complaint was handled, does not support Postcomm's assertion in paragraph 2.20 that the current licence requirements for complaint handling have been effective.

With regard therefore to Consultation Questions 4.1 to 4.7, the new NCC believes that prescriptive complaint handling standards are required to drive the necessary improvements in complaint handling performance.

A set of high level principles as proposed in paragraph 2.19(ii) is unlikely to achieve the outcome envisaged by Parliament when the requirement to set standards was imposed on Postcomm in the Act.

In our view, the Regulations will need to ensure that:

1. A common definition of a complaint is adopted. This should be as broad as possible to ensure that all expressions of dissatisfaction are captured. The new NCC would prefer the BSI definition to be adopted. It should also be a requirement to record all complaints received at the first point of contact.
2. Consumers have a clear understanding of how to complain and how they can escalate an unresolved complaint. This will require a clear obligation to signpost consumers to the complaint handling procedure at an early stage, including making consumers aware of the rights under the Redress Scheme.
3. Additional assistance is provided to vulnerable consumers. The new NCC intends to use its powers to assist vulnerable consumers, so the Regulations should ensure that there is a requirement for postal operators to agree arrangements with the new NCC for handling these cases. Postal operators should also be required to establish arrangements for dealing with complex cases which, for example, involve more than one postal operator, as this will help reduce the need for the new NCC to become involved in the resolution of outstanding cases.

4. Consumers are made aware of how they can obtain independent advice and information. Consumer Direct has a key role to play in providing a first tier advice service for postal consumers and the Regulations should ensure that appropriate arrangements are agreed with Consumer Direct for referral of enquiries and complaints.
5. The new NCC is able to assess whether the new Standards are operating effectively and to publish information on complaints performance. The Regulations will therefore need to ensure that the new NCC has access to sufficient information on complaints handling performance to allow it to fulfil its statutory functions and that appropriate arrangements are made for audit and publication of the complaints data.
6. There is sufficient incentive for operators to commit adequate resources to handling consumer complaints. This will require Postcomm ensuring that the Regulations allow effective enforcement action to be taken if an operator fails to deliver acceptable performance.

With regard to Question 4.8, you will be aware that Ofgem is also developing complaint handling standards for the energy industry and will shortly issue its discussion document. We understand that Ofgem will be proposing detailed regulations and we strongly believe that postal consumers should receive the same level of protection.

The Ofgem proposals require companies to ensure that they commit adequate resources to their complaint handling process and we believe that this requirement should be mirrored for postal services, as it will enable Postcomm to take effective enforcement action if a postal operator fails to deliver acceptable performance.