

# Review of ADR in the telecoms sector

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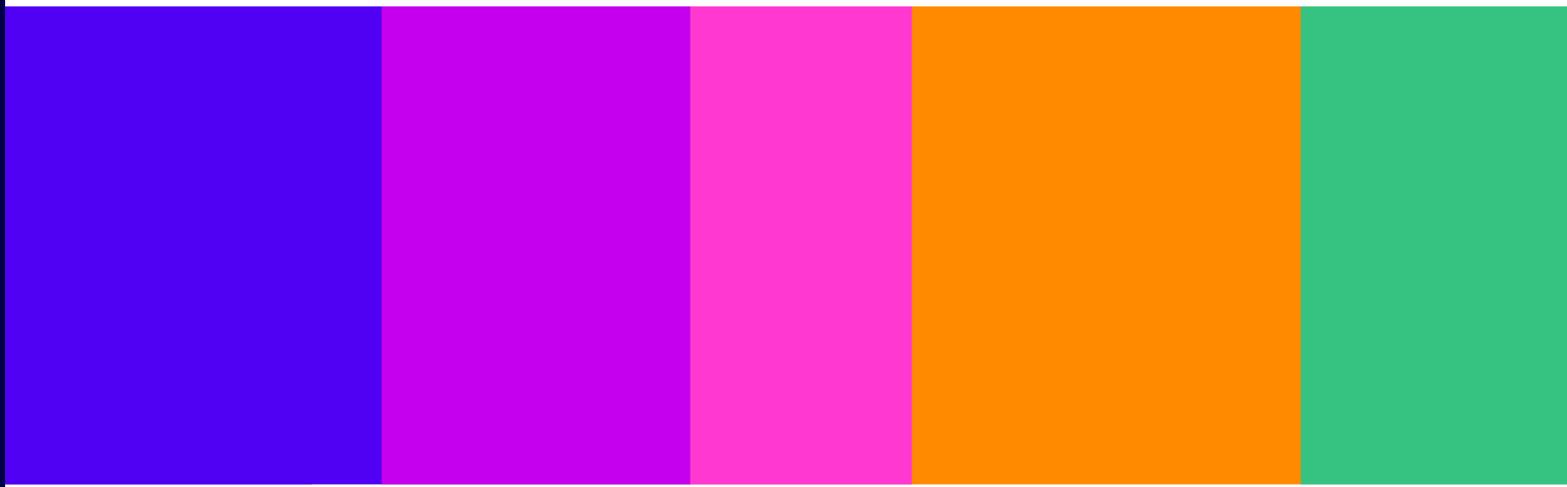
Consultation on Ofcom's review of  
Alternative Dispute Resolution (ADR)  
procedures established under the  
Communications Act 2003

Non-confidential version: [⌘] marks confidential redactions

## Consultation

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# 1. Overview

- 1.1 **This document sets out Ofcom’s proposal to reduce the timeframe consumers must wait to access ADR from 8 weeks to 6 weeks. It also sets out Ofcom’s proposal to re-approve Communication Ombudsman and the Communications and Internet Services Adjudication Scheme under the Communications Act.**
- 1.2 Alternative Dispute Resolution (‘ADR’) schemes are independent bodies that carry out an impartial assessment of unresolved complaints between a customer and their communications provider (‘provider’). In telecoms, customer complaints can cover a range of issues, from billing and customer service to technical faults. ADR plays an important role in ensuring complaints handling is fair and effective when problems do arise, which protects consumers and empowers them in their relationship with providers.
- 1.3 Under the Communications Act 2003 (‘the Act’), certain providers are required to be members of an Ofcom-approved ADR scheme. Providers must inform consumers of their rights to access ADR if a complaint has not been resolved to their satisfaction after 8 weeks or, before then, if the complaint reaches deadlock.
- 1.4 We currently approve two ADR schemes (‘the schemes’) under the Act: Communications Ombudsman (‘CO’, previously known as Ombudsman Services) and the Communications and Internet Services Adjudication Scheme (‘CISAS’). We are required to keep our approvals of these schemes under review.
- 1.5 In November 2023, we launched a review of the operation of ADR in the telecoms sector. Our review has focused on three areas: consumers’ ability to access ADR, the consumer experience of the schemes and re-approval of the schemes under the Act. To inform our assessment we commissioned research to understand the consumer experience of the ADR process and a review of a sample of actual ADR cases.
- 1.6 Overall, our review indicates that the rules we have in place on providers to facilitate access to ADR are working well. However, our analysis suggests that most consumers who are waiting for longer than 6 weeks to access ADR, and who do not receive a deadlock letter from their provider, are not getting good outcomes. We are proposing to amend our rule on the timeframe for providers to facilitate access to ADR to ensure that the ADR regime continues to remain effective for consumers.
- 1.7 The schemes are working well, but we think some targeted changes are required to improve consumers’ experience of the journey through the ADR process.

## What we are proposing – in brief

### Consumer access to ADR

Currently, providers are required to issue ADR letters, informing consumers of their right to access ADR, if a complaint has not been resolved to the consumer’s satisfaction 8 weeks after it was first raised. This rule has been in place from 2009 and since then we have seen significant change in the extent to which consumers use and rely on digital communications services. One of the aims of our review is to assess whether the current timeframe remains effective in today's market.

We collected data from industry for a two-year period (1 January 2022 to 1 January 2024) and found that the vast majority of complaints (94%) were resolved within 6 weeks. However, for the significant number of consumers (c.700,000) whose complaint had not been resolved or referred to ADR by that point, a relatively small proportion (c.19%) were able to get their issue resolved or were referred to ADR by the end of the current 8-week deadline. This suggests that a material number of consumers were left with their complaint, and any associated harm, unresolved for a further 2 weeks before being able to access ADR.

Therefore, we are proposing to reduce the timeframe before consumers can access ADR from 8 weeks to 6 weeks. We think this change is necessary to ensure that the ADR regime remains effective and gives consumers prompt access to dispute resolution.

Further detail on our proposal is set out in Section 3 of this document and the proposed rule changes are set out in at Annex A5.

### **Re-approval of CO and CISAS**

We propose to re-approve both CO and CISAS under the assessment criteria set out under the Act. We consider that the consumer research and case review, alongside information we have collected directly from the schemes, demonstrates they are working well and continue to meet the statutory assessment criteria.

While not a condition of re-approval, there are improvements we propose the schemes should implement. The schemes should introduce an improved review process to monitor the quality of decision letters to ensure they remain at a high standard. The schemes should provide more information on the ADR process on their websites, with appropriate guidance on the levels of compensation that would be appropriate to request to support consumers when they are submitting a claim.

Our proposal to re-approve the schemes is set out in Section 4 of this document.

### **Ofcom's oversight of the schemes**

Ofcom monitors the schemes' operational performance primarily through a set of Key Performance Indicators (KPIs) we set for the schemes, which we publish on our website on a quarterly basis. Setting effective KPIs helps build consumer confidence in the ADR process. Our assessment of the evidence suggests that, while the KPIs broadly cover the right areas, some of the KPIs are not set at the right level. Therefore, we propose to increase the targets while keeping them within the bounds of current performance. This will allow us to focus in more detail on performance and identify potential problems should they arise. It should also help the schemes to focus their resources most effectively on the areas that require improvement.

Our assessment of the KPIs is set out in Section 5 of this document.

## **Next steps**

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- 1.8 We are consulting on the proposals set out in this document until 12 March 2025, and our plan is to publish our final decision by summer 2025.
- 1.9 Subject to responses, we intend for the rule change in relation to access to ADR to come into effect 6 months after the publication of our final decision, and for the new KPIs for the schemes to come into effect 3 months after the publication of our final decision. This period

reflects the need to give providers and the schemes sufficient time to make the necessary changes to their processes.

- 1.10 The overview section in this document is a simplified high-level summary only. The proposals we are consulting on and our reasoning are set out in the full document.

## 2. Background, regulatory framework and scope of this review

- 2.1 Fair and effective complaints handling processes protect consumers and empower them in their relationship with communications providers ('providers'). Alternate Dispute Resolution ('ADR') schemes play an important role in complaints handling. In the event that a consumer or small business cannot resolve an issue with their provider, they can refer their complaint to a scheme.<sup>1</sup>
- 2.2 ADR schemes are independent bodies that carry out an impartial assessment on complaints between a customer and a provider, and reach a decision based on the information submitted by both parties. Schemes can improve the outcome for customers whose complaints might otherwise remain unresolved or be unduly delayed.<sup>2</sup> Schemes also provide incentives to providers to improve their complaints handling processes and resolve complaints quickly, due to the costs incurred by the provider when a case is taken to a scheme.
- 2.3 ADR schemes are well-established within the telecoms sector, and in other sectors including the financial services and energy sectors. The outcome of a case being raised by a consumer to a scheme may include a letter of apology, financial compensation and/or direct action being taken by the provider to resolve the issue.
- 2.4 A dispute resolution process that is working well builds trust and confidence in the communications networks and services that people use. This supports our strategic objective to support access to fast and reliable connections and services.
- 2.5 Ofcom has a duty under the Communications Act 2003 ('the Act') to set General Conditions of Entitlement ('GCs'), as it considers appropriate, relating to the handling of complaints made to providers by domestic and small business customers.<sup>3</sup> Under our rules, we require specified providers to be members of an Ofcom-approved scheme.<sup>4</sup> These providers must inform customers of their rights to access ADR if a complaint has not been resolved to their satisfaction after 8 weeks, or before then, if the complaint reaches deadlock.<sup>5</sup>

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<sup>1</sup> This means the business must have less than 10 employees (whether employed or volunteers).

<sup>2</sup> More information about how to log a complaint with an scheme and how to identify which scheme a particular provider belongs to can be found on the [Ofcom website](#).

<sup>3</sup> Section 52 of the Act.

<sup>4</sup> Communications providers offering services to people, small businesses (up to 10 employees) and not-for-profit organisations (where up to 10 individuals work, not including volunteers) must be members of an Ofcom-approved Alternative Dispute Resolution (ADR) scheme.

<sup>5</sup> Deadlock is reached if the provider has told the complainant the outcome of its investigation into the complaint, the complainant has told the provider that they consider the proposed outcome does not resolve the complaint to their satisfaction, and the provider does not intend to take additional steps to resolve the complaint that would produce a different outcome.

- 2.6 We have approved two ADR schemes ('the schemes') for the telecoms sector, based on certain criteria specified in the Act: Communication Ombudsman ('CO') and the Communication & Internet Services Adjudication Scheme ('CISAS').<sup>6</sup> Providers are free to choose which of the approved schemes they are a member of. Any complaints made to the provider that are taken to ADR will be handled by the scheme that the provider belongs to.
- 2.7 In this review, we assess the rules we have set for providers in regard to facilitating access to ADR. We consider whether these rules are working as they should for consumers, including whether any changes are needed.
- 2.8 We also assess our current approval of the two schemes in respect of the criteria set out in the Act. In brief, these criteria are as follows: accessibility, independence, fairness, efficiency, transparency, effectiveness, accountability and non-discriminatory. In addition, we consider the criteria of consistency as part of the Act, to assess whether the different approaches adopted by schemes are leading to inconsistencies between both schemes. This is important to consider where there is more than one approved scheme.

## Current regulatory framework

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- 2.9 We set out below a summary of the statutory framework and our associated regulatory rules on ADR procedures for consumer complaints. This summary is not an exhaustive description of the legal regime currently in force; readers should refer to the specific statutory provisions and regulatory conditions found in the Act and GCs for greater detail.<sup>7</sup>

## Ofcom's general duties

- 2.10 Our principal duty in carrying out our functions is to further the interests of citizens in relation to communications matters and consumers in relevant markets, where appropriate by promoting competition (section 3(1) of the Act).
- 2.11 In performing these duties, we are required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent, targeted only at cases in which action is needed; and any other principles appearing to us to represent the best regulatory practice (section 3(3) of the Act).
- 2.12 Section 3(4) of the Act notes that, in performing the duties under section 3(1), we must also have regard, among other things, to the desirability of promoting and facilitating the development and the use of effective forms of self-regulation; and the opinions of consumers in relevant markets and of members of the public generally.
- 2.13 Under section 3(5) of the Act, in furthering the interests of consumers, we must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.
- 2.14 Section 4 of the Act requires that we act in accordance with the six requirements set out in that section, including a requirement to promote the interests of all members of the public in the United Kingdom.

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<sup>6</sup> CO was previously known as Ombudsman Services: Communications ('OS') until a change in name in July 2023.

<sup>7</sup> Ofcom, 2024. [General Conditions of Entitlement: Unofficial Consolidated Version](#).

- 2.15 Section 108 of the Deregulation Act 2015 sets out Ofcom’s duty to have regard to the desirability of promoting economic growth when exercising its regulatory functions. In order to consider the promotion of economic growth, Ofcom will exercise its regulatory functions in a way that ensures that: a) regulatory action is taken only when it is needed; and b) any action taken is proportionate. The government’s statutory guidance on this duty recognises drivers of economic growth to include innovation and competition.<sup>8</sup>
- 2.16 In accordance with section 2B of the Act, we must also have regard to the UK Government’s Statement of Strategic Priorities (SSP) for telecommunications, management of radio spectrum and postal services, which includes the Government’s commitment to safeguarding the interests of telecoms consumers, including the vulnerable and less engaged, by ensuring they are better informed and protected.<sup>9</sup>

## Ofcom’s powers and duties in relation to GCs

- 2.17 We have the general power under section 45 of the Act to set GCs imposed on providers who provide an electronic communications network and/or electronic communications services in the United Kingdom.
- 2.18 Under section 52 of the Act, we have a duty to set GCs that we think are appropriate for securing that public providers establish and maintain procedures with respect to complaints handling and the resolution of disputes between providers and their domestic and small business customers, including the provision of remedies and redress in respect of such disputes. When setting these GCs, we must secure (so far as we consider appropriate) that complaints handling and dispute resolution procedures are easy to use, transparent, non-discriminatory and effective; and that domestic and small business customers can access them free of charge (section 52(3) of the Act).
- 2.19 In line with this duty, we have set GCs for complaints handling and dispute resolution,<sup>10</sup> which apply to all providers who provide public electronic communication services to consumers, microenterprise or small enterprise customers or not-for-profits.<sup>11</sup> These include requiring providers to be a member of an approved scheme and to abide by any final decisions of the schemes (GC C4.3(a) and (b)). Providers must also provide certain information in bills on the rights of customers to take unresolved complaints to a scheme (GC C4.3(d)).
- 2.20 GC C4.2 requires providers to have and comply with procedures for complaints handling that conform with section 1 of the [Ofcom approved complaints code](#) (‘the Code’). Section 1 of the Code sets out that providers must immediately issue an ADR letter to the complainant when the complaint reaches deadlock<sup>12</sup> or remains unresolved after 8 weeks.<sup>13</sup>

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<sup>8</sup> In this document we have considered, where appropriate, the proportionality of our proposals. In particular, we consider the proportionality of our proposal to reduce the timeframe before consumers can access ADR from 8 weeks to 6 weeks between paragraph 3.89 to 3.98.

<sup>9</sup> Department for Digital, Culture, Media & Sport, 2019. [Statement of Strategic Priorities](#).

<sup>10</sup> These GCs are set out in condition C4.

<sup>11</sup> These terms are defined in the [General Conditions of Entitlement](#).

<sup>12</sup> Paragraph 11 of the Code.

<sup>13</sup> Paragraph 12 of the Code.

It also sets out requirements in relation to ADR letters. For example, that it must be written in plain English, issued in a durable medium and provide contact details of the scheme.<sup>14</sup>

## Ofcom's role in regulating schemes

- 2.21 Section 54 of the Act sets out the criteria that we need to take into account when approving schemes. These include being satisfied that the arrangements are administered by a person who is independent of both Ofcom and providers and that the dispute procedures are easy to use, transparent, non-discriminatory and effective. The arrangements must also ensure that disputes are effectively investigated, confer power to make awards of appropriate compensation and enable these awards to be properly enforced.<sup>15</sup> The Act allows us to approve dispute procedures subject to such conditions (including conditions as to the provision of information to Ofcom) as we may think fit.<sup>16</sup>
- 2.22 The Act requires us to keep approved schemes under review.<sup>17</sup> It also makes provision for us to modify conditions of approval or withdraw approval at any time.<sup>18</sup> In doing so and in approving, we must have regard to the need to secure that: customers are able readily to comprehend dispute procedures; there is consistency between the different approved procedures; and the number of approved procedures is kept to a minimum.<sup>19</sup>
- 2.23 In addition, section 49 of the Act sets out that we must not modify or withdraw an approval that affects the operation of a GC without being satisfied that to do so does not discriminate unduly and is proportionate and transparent in relation to what it is intended to achieve.
- 2.24 Taking account of section 52(3) and 54(2) of the Act, we have devised approval criteria to assess whether or not we should re-approve the schemes in our formal reviews.<sup>20</sup> These criteria are: **accessibility, independence, fairness, efficiency, transparency, effectiveness, accountability and non-discriminatory**. In addition to these criteria, we also assess whether there is **consistency** between the two schemes in line with section 54(7)(b) of the Act.
- 2.25 We monitor each scheme's performance on an ongoing basis, including against Key Performance Indicators ('KPIs'), which are set out and monitored by Ofcom. We publish KPIs on a quarterly basis to provide further transparency on the schemes' performance.<sup>21</sup>

## The 2015 ADR Regulations

- 2.26 In 2015, the Alternative Disputes Resolution for Consumer Disputes (Competent Authorities and Information) Regulations ('the ADR Regulations') were introduced. These regulations establish competent authorities to certify schemes and set minimum standards that scheme applicants must meet to achieve certification.

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<sup>14</sup> Paragraph 13 of the Code.

<sup>15</sup> Section 54(2) of the Act.

<sup>16</sup> Section 54(3) of the Act.

<sup>17</sup> Section 54(4) of the Act.

<sup>18</sup> Section 54(5) of the Act.

<sup>19</sup> Section 54(6-7) of the Act.

<sup>20</sup> These criteria were also used in our previous two reviews of the schemes in 2011 and 2017.

<sup>21</sup> The KPIs we set and the schemes' performance against them can be found on our [website](#).

- 2.27 For the purposes of these regulations, Ofcom is the competent authority for the UK communications and postal sectors, and it has approved schemes under these regulations. Every two years, we must assess whether the schemes we approved still meet the requirements under the ADR Regulations.<sup>22</sup> In April 2024, we found both CO and CISAS continued to meet these requirements alongside POSTRS and CDRL for postal services and ‘non-regulated’ complaints, respectively.<sup>23</sup>
- 2.28 The Digital Markets, Competition and Consumers Act 2024 (‘the DMCC Act’), which came into force in May 2024 has revoked the 2015 ADR Regulations and introduced a new regime for alternative dispute resolution.<sup>24</sup> Under this regime, entities are prohibited from acting as ADR providers unless they fall under certain categories, including where they are “exempt” ADR providers by virtue of being approved under section 54 of the Act (such as CO and CISAS). Once the changes under the DMCC Act come into force, we will solely rely on our powers under the Act to oversee and approve schemes. In this consultation, we are carrying out a review under the Act.

## Our previous reviews

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- 2.29 We periodically undertake formal reviews of the schemes, as required by the Act. These formal reviews help ensure, among other things, that the schemes continue to be accessible, fair and efficient services to consumers, and therefore can continue to be approved schemes.
- 2.30 We last carried out a formal review under the Act of both schemes in 2017 (the 2017 ADR Review), where we published a Call for Inputs and commissioned a report by Mott MacDonald to undertake a review of a sample of cases.<sup>25</sup> These were used to help assess the schemes against the established criteria (see paragraph 2.24). The review re-approved Ombudsman Services and CISAS, alongside recommendations for the schemes to publish more complaints data on their websites and review and monitor customer satisfaction data.<sup>26</sup>
- 2.31 Separately, we also reviewed our rules related to complaints handling and access to ADR in 2016/2017, as part of a review of our GCs. We introduced a new code that placed further requirements on providers to ensure consumer complaints are resolved in an effective and timely manner.<sup>27</sup> The changes included strengthened provisions on the transparency of the complaints process, and more effective signposting of access to ADR when complaints become deadlocked, among other things.<sup>28</sup>
- 2.32 Prior to the 2017 ADR review, we had carried out a review in 2012 (‘the 2012 ADR review’), which was informed by a report by Mott MacDonald on the quality of decision-making and consistency between schemes. Both schemes were approved on the condition that the

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<sup>22</sup> ADR Regulations 2015, regulation 11(3).

<sup>23</sup> For more information on the other schemes, please visit [POSTRS’ website](#) and [CDRL’s website](#).

<sup>24</sup> The Government is yet to set the date for commencement for this revocation.

<sup>25</sup> Ofcom, 2017. [Review of Ofcom’s approval of Alternative Dispute Resolution Schemes](#).

<sup>26</sup> CO was previously known as Ombudsman Services until its name change in July 2023.

<sup>27</sup> [Annex to C4, Section 1, of the GCs](#).

<sup>28</sup> Ofcom, 2017. [Review of the General Conditions of Entitlement: Statement and Consultation](#).

schemes would adopt a set of decision-making principles and compensation guidelines to ensure greater consistency across the schemes.<sup>29</sup>

- 2.33 We reviewed our rules around access to ADR in 2008/9, where we decided to reduce the time consumers had to wait before they can access ADR from 12 weeks to 8 weeks. This change was proposed on the basis that the majority of complaints that remained open after 8 weeks were not resolved within the additional 4 weeks, and therefore shortening the period would be a proportionate response which would reduce the harm of raising a complaint and produce a better outcome for consumers.

## Alternative Dispute Resolution in telecoms

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- 2.34 ADR plays an important role in complaint resolution for consumers within telecoms. When a complaint cannot be resolved by a provider or is taking longer than it should, ADR offers consumers an alternative option to resolve their complaint without having to go to court, which can be expensive and time consuming. If there are barriers in place to ADR, or accessing ADR takes longer than it should, consumers may experience significant harm on account of their complaint remaining unresolved or being unduly delayed.
- 2.35 ADR can also be beneficial for providers. For instance, providers may use the insights from the scheme to inform and improve their complaints handling processes, which may work to drive down the overall numbers of complaints.
- 2.36 Within the telecoms sector, consumers may take a range of complaints to ADR. These include billing issues, customer service complaints, technical faults and loss of service, mis-selling, contract issues, equipment and security issues. Some complaints are out of scope of the schemes, and therefore the schemes are unable to assist consumers in resolving these complaints, such as those relating to the price of services.
- 2.37 Before putting forward a dispute to a scheme, a customer must have raised a complaint with their provider first. After which, the complaint must remain unresolved for at least 8 weeks, or the customer must have received a deadlock letter. A deadlock letter sets out that the provider has been unable to resolve the complaint to the customer's satisfaction and it does not intend to take any more steps to try and resolve the complaint.
- 2.38 The customer then has the choice of taking their case to ADR. The provider can still work to resolve a complaint after the customer has been referred to ADR. Alternatively, the customer may decide to pursue their dispute through the courts, but this can be expensive and time consuming.
- 2.39 The schemes decide if a case is to be accepted or not in line with their rules, with the opportunity for providers to appeal these decisions. For example, a scheme may not accept a dispute as it is considered to be frivolous or vexatious, or because the complainant is not a customer of the provider. In the instance that a scheme decides that a dispute falls out of scope of ADR, we encourage schemes to signpost the consumer to the appropriate

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<sup>29</sup> Ofcom, 2012. [Review of Alternative Dispute Resolution Schemes](#).

organisation to handle the issue.<sup>30</sup> In the period between July 2023 to June 2024, CO accepted a total of 33,000 cases<sup>31</sup> and CISAS accepted a total of 5,006 cases.<sup>32</sup>

- 2.40 After an application is made to a scheme, the provider can agree a settlement with the customer without the scheme conducting a full investigation. If the customer rejects the settlement offer, or a settlement is not offered, the scheme will review evidence submitted by both the provider and customer and come to a decision. The scheme is independent and therefore may rule in favour of either the customer or the provider.
- 2.41 The consumer can choose to accept or reject this decision. Under the rules of CO, both consumers and providers are able to appeal a decision if there is new evidence that has surfaced after the initial case was submitted that makes a material difference to the decision reached, or if a factual error was made during the initial decision which makes a material difference to the decision reached.<sup>33</sup> This is not part of CISAS' processes and the decision that the scheme comes to after an investigation cannot be appealed.
- 2.42 If the scheme rules in favour of the customer, it may award the consumer a set payment (payable by the provider), issue a set of specific actions to be taken by the provider (such as issuing an apology or fixing an issue the customer has faced) or a combination of these. The aim of any remedy imposed by the scheme is to return the consumer to the position they were in before the complaint. It should be noted that the scheme can compel the provider to issue different types of financial award, such as compensation or distress and inconvenience payments.
- 2.43 In cases where a scheme compels a provider to issue a remedy, providers are required by our GCs to implement this within the specified time period (GC C4.3(b)).

## Purpose, scope and approach to the review

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### Purpose of this review

- 2.44 We are carrying out a review of the schemes in accordance with their obligations under section 54 of the Act.<sup>34</sup> This review assesses whether the schemes we have previously approved are continuing to meet the approval criteria set out in the Act.
- 2.45 Broadly, our review of the schemes aims to assess three areas:
- i) whether consumers are receiving accessible, fair and consistent outcomes from the approved schemes in the telecoms sector;
  - ii) whether the current schemes continue to meet the approval criteria set out in the Act;<sup>35</sup> and
  - iii) the consistency between the two schemes in line with section 54(7)(b) of the Act.

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<sup>30</sup> CISAS, 2024. [Communications & Internet Services Adjudication Scheme \(CISAS\) Scheme Rules. CO's Terms of Reference](#). CO. [Terms of reference – Communications sector](#).

<sup>31</sup> CO, 2024. [Annual Activity Report, July 2023 – June 2024](#).

<sup>32</sup> CISAS, 2024. [ADR Entity Reporting – Annual Report, 1 July 2023 – 30 June 2024](#).

<sup>33</sup> [Our process | Communications Ombudsman \(commsombudsman.org\)](#) [accessed 7 January 2025].

<sup>34</sup> The Act does not specify how regularly Ofcom must review the schemes. The last review occurred in 2017. Ofcom, 2017. [Review of Ofcom's approval of Alternative Dispute Resolution Schemes](#)

<sup>35</sup> Section 52(3) and 54(2) of the Act.

- 2.46 We are also taking the opportunity to review two further areas related to ADR:
- i) the rules we set for providers in enabling their customers to access ADR; and
  - ii) our oversight of the scheme's performance.

## Scope of this review

2.47 In November 2023, we published a Call for Inputs ('2023 CFI'), seeking views on the planned scope of our review.<sup>36</sup> Specifically, we sought views on how we intended to consider consumer access to ADR, the consumer experience of the ADR process and Ofcom's oversight of the schemes. We received 16 responses from a range of providers, individuals, consumer groups and trade groups.<sup>37</sup> A majority of stakeholders agreed with the scope, with some requesting to broaden it further. This feedback has been considered as part of this review and will be addressed in Sections 3-5 where we consider different policy proposals.

2.48 We have sought evidence from a variety of sources to support our review:

- i) We commissioned Jigsaw to undertake research on the consumer experience of the ADR process (the 'consumer research'). Jigsaw followed 77 consumers through their ADR journey, conducting multiple surveys and using participant diaries to understand consumers' experiences at different stages of the ADR process.<sup>38</sup> At the end of their journeys, 20 research participants also took part in an additional interview. Jigsaw's research report has been published alongside this consultation. It can be found in Annex A8 of this consultation.
- ii) We also commissioned Lucerna to carry out a case review (the 'case review'), assessing a sample of ADR cases, with a particular focus on the quality and consistency of decision-making. Lucerna reviewed 106 cases from CO and 96 cases from CISAS, assessing the schemes against questions derived from the established criteria set out in paragraph 2.24. The case review provides insight into the consumer experience of each scheme, the quality of communication, decision-making, how easy it is for consumers to understand decisions and consistency between the two schemes.<sup>39</sup> Lucerna's report has been published alongside this consultation. It can be found in Annex A9 in this consultation.
- iii) We requested information from both schemes using our statutory information gathering powers under section 135 of the Act. This included information relating to the schemes' case acceptance, consumer support, case investigation and adjudication processes, KPIs and service complaints.
- iv) We issued information requests under section 135 of the Act to certain providers on their complaints handling procedures and the time taken to resolve complaints, among other things.

2.49 During the review, we have also collected evidence from desk-based research, including from the schemes' websites.

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<sup>36</sup> Ofcom, 2023. [Call for Inputs: Review of ADR in the telecoms sector](#).

<sup>37</sup> The non-confidential responses can be found on [our website](#).

<sup>38</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report.

<sup>39</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report.

## Impact assessment

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- 2.50 Under Section 7 of the Act, Ofcom is required to carry out and publish an assessment of the likely impact of implementing a proposal which would be likely to have a significant impact on businesses or the general public, or when there is a major change in Ofcom’s activities. The relevant duties in relation to the proposal on which we are consulting are summarised above.
- 2.51 More generally, impact assessments form part of good policy making and we therefore expect to carry them out in relation to a large majority of our proposals. We use impact assessments to help us understand and assess the potential impact of our policy decisions before we make them. They also help us explain the policy decisions we have decided to take and why we consider those decisions best fulfil our applicable duties and objectives in the least intrusive way. Our impact assessment guidance sets out our general approach to how we assess and present the impact of our proposed decisions.<sup>40</sup>
- 2.52 In this consultation, we present the information gathered, our analysis and set out any options considered and assess their impact and proportionality. For example, in Section 3, between paragraph 3.84 to paragraph 3.98, we set out in full the impact assessment for our proposal to reduce the timeframe before consumers can access ADR from 8 weeks to 6 weeks.

## Equality impact assessment

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- 2.53 We have statutory obligations under section 149 of the Equality Act 2010 (‘the 2010 Act’), section 75 of the Northern Ireland Act 1998 (‘the 1998 Act’) and section 3(4) of the Act, to consider the likely impact of our proposals on specific groups of persons.
- 2.54 Section 149 of the 2010 Act imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.
- 2.55 Section 75 of the 1998 Act also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and have regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Ofcom’s Revised [Northern Ireland Equality Scheme](#) explains how we comply with our statutory duties under the 1998 Act.
- 2.56 To comply with our duties under the 2010 Act and the 1998 Act, we assess the impact of our proposals on persons with protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations (see paragraphs 3.10 to 3.16 in our [Impact Assessment Guidance](#) for more information).

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<sup>40</sup> Ofcom, 2023. [Impact Assessment Guidance](#).

- 2.57 Section 3(4) of the Act also requires us to have regard to the needs and interests of specific groups of persons when performing our duties, as appear to us to be relevant in the circumstances. These include:
- i) the vulnerability of children and of others whose circumstances appear to us to put them in need of special protection;
  - ii) the needs of persons with disabilities, older persons and persons on low incomes; and
  - iii) the different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and in urban areas.
- 2.58 Impact assessments not only ensure we comply with our legal obligations, but they also form part of best practice policy making. This ensures that our policy decisions fulfil our objective to make communications work for everyone.
- 2.59 We have examined the potential impacts of our proposals in light of these duties. Overall, we don't think there would be any negative equality impacts on specific groups of people arising from our proposals.
- 2.60 In forming our proposals, we drew on the following evidence:
- i) Information requests to the providers and schemes. We attempted to obtain data relating to different groups of consumers through these requests; however, neither the providers nor the schemes could provide information at this level of granularity, as they do not hold it on their systems.
  - ii) Research into the consumer experience of ADR. This research assessed the experiences of those who require reasonable adjustments as part of the ADR consumer journey. Both the commissioned research and the case review looked at whether the schemes are sufficiently accessible to vulnerable consumers and consumers based in different regions of the UK.
  - iii) Desk-based research.
- 2.61 We used this evidence to develop our proposals, and we did not identify any adverse equality impacts on specific groups of people as a result of our proposals. Instead, we consider that our proposals will have the following positive impacts:
- i) Our proposal to reduce the timeframe to access to ADR from 8 weeks to 6 weeks and continue to engage with providers on signposting and issues with ADR letters will positively impact all consumers, including those sharing particular protected characteristics.
  - ii) Our proposal to re-approve the schemes with minor improvements will have positive impacts on those requiring reasonable adjustments and people of different socio-economic groups. This is because the improvements we are proposing will require schemes to provide more information about the ADR process to customers, including upfront contact information for those who require reasonable adjustments (including consumers who cannot use online services) and further details on the amount of financial compensation consumers could request.
  - iii) Our proposals to adjust the KPIs we set for schemes will incentivise schemes to improve their performance in responding to consumer correspondence, which will positively impact all consumers, including those sharing particular protected characteristics.

2.62 To summarise, we do not consider that our proposals will have either direct or indirect adverse impacts on equality groups. After a careful assessment, we conclude that our proposals will positively impact all consumers, including those sharing particular protected characteristics. Where we have required the schemes to improve the information they make available to customers, and requested that they improve how they identify reasonable adjustments, we anticipate that there will be positive impacts on people requiring reasonable adjustments and people of different socio-economic groups.

## Welsh language assessment

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- 2.63 In recognition of the Welsh language having official status in Wales,<sup>41</sup> Ofcom is required to comply with Welsh language standards.<sup>42</sup> This requires us to consider:
- i) the potential impact of our policy proposals on opportunities for persons to use the Welsh language;
  - ii) the potential impact of our policy proposals on treating the Welsh language no less favourably than the English language; and
  - iii) how our proposals can be formulated so as to have, or increase, a positive impact; or not to have adverse effects or to decrease any adverse effects.
- 2.64 We have considered the potential impacts on opportunities to use Welsh and treating Welsh no less favourably than English in formulating our proposals.
- 2.65 We anticipate that our proposals to reduce the timeframe for access to ADR to 6 weeks and engage with providers on signposting and issues with ADR letters will have no impact, either positive or negative, on opportunities for persons to use the Welsh language or on treating the Welsh language no less favourably than the English language.
- 2.66 We anticipate that our proposals to re-approve both schemes and introduce small changes to the consumer journey will have a positive effect on persons to use the Welsh language, and in treating the Welsh language no less favourably than English. Schemes will continue to operate and provide ADR as a route for consumers, including those from Wales.
- 2.67 We anticipate that our proposals to adjust the KPIs we set for schemes, to encourage them to improve their performance, will have no impact, either positive or negative, on opportunities for persons to use the Welsh language or on treating the Welsh language no less favourably than the English language.
- 2.68 To understand how our proposals could be formulated to increase a positive impact on opportunities for persons to use the Welsh language and on treating the Welsh language no less favourably than the English language, we contacted both schemes to understand more about the accessibility of the schemes for persons who use the Welsh language. We found that both CO and CISAS can accept complaints and issue decisions in Welsh, with translation tools available that are free to use on their website to allow complainants to access key documents (such as the scheme rules) in Welsh. These translation services are also available to members of staff when they are in contact with complainants.

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<sup>41</sup> [The Welsh Language \(Wales\) Measure 2011.](#)

<sup>42</sup> [The Welsh language standard.](#)

## Structure of this document

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2.69 The rest of this document is structured as follows:

- **Section 3. Facilitating access to ADR:** a review of the consumer experience of accessing ADR, including a consideration of any barriers to accessing ADR and if our rules on facilitating access to ADR work effectively.
- **Section 4. Re-approval of the schemes under the Act:** our assessment on the re-approval of the schemes.
- **Section 5. Setting effective KPIs:** a review of how Ofcom engages and oversees the schemes.

2.70 The annexes are structured as follows:

- **Annex A1. Responding to this consultation:** details on how to respond to this consultation.
- **Annex A2. Ofcom’s consultation principles:** principles that Ofcom follows for every public written consultation.
- **Annex A3. Consultation coversheet:** a coversheet to use when responding to this consultation.
- **Annex A4. Consultation questions:** a set of questions we welcome views and evidence on from stakeholders.
- **Annex A5. Notification of proposed modifications to General Condition C4 – Complaints handling and dispute resolution.** A legal notice setting out our proposal to modify General Condition ('GC') C4.
- **Annex A6. Our decision-making principles:** guidelines to decision-making that have been adopted by the schemes to aid them with making certain types of decisions and compensation payments.
- **Annex A7. Methodology used to estimate the cost of a change in the timeframe for access to ADR from 8 to 6 weeks:** conducted by Ofcom, the cost-benefit analysis used in our proposals on whether to reduce the 8-week timeframe for accessing ADR.
- **Annex A8. Consumer research – [Jigsaw report](#):** a research report, conducted by Jigsaw, into the experiences of consumers throughout the ADR process.
- **Annex A9. Case review – [Lucerna report](#):** a report, conducted by Lucerna, assessing case decisions made by the two schemes.

# 3. Facilitating access to ADR

## Purpose of this section

In this section, we review the consumer journey to ADR. We consider whether our rules facilitating access to ADR are working effectively for consumers. We also consider options for improving access to ADR, including amending our existing rules. In particular, we look at:

- whether the timeframe before consumers can access ADR (which is currently 8 weeks or earlier if a complaint reaches deadlock) is set at the appropriate level; and
- the functioning of ADR letters (8-week and deadlock referral letters).

## In summary

- We are proposing to reduce the timeframe before consumers can access ADR from 8 weeks to 6 weeks.
- We are concerned that some consumers are not being given prompt access to ADR when their provider cannot resolve their complaint. Our analysis suggests that, for consumers that have an unresolved complaint at 6 weeks, the likelihood of them receiving a resolution or referral to ADR ahead of the current timeframe is low. These consumers are typically waiting an additional 2 weeks, sitting with any associated harm from their complaint, before being able to access ADR. We consider that the timeframe needs to be reduced to ensure that our rules are effective in enabling prompt access to ADR for all consumers.
- We consider the rest of our rules facilitating access to ADR remain appropriate. Where we have identified some issues with providers' compliance with our existing rules, we propose to address these issues through engagement with the providers.

## Background

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- 3.1 ADR is an important protection for consumers, empowering them to resolve disputes with their providers without having to go to court.<sup>43</sup> However, its effectiveness relies on consumers being aware of their right to go to ADR and having prompt access when their complaint cannot be resolved by their provider.
- 3.2 We have a specific duty under section 52 of the Act to secure (so far as we consider appropriate) that providers establish and maintain complaints handling and dispute resolution procedures that are easy to use, transparent, non-discriminatory and effective.<sup>44</sup> To meet this duty, we put in place several rules designed to facilitate access to ADR for

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<sup>43</sup> A dispute is a complaint made by a consumer that has not been resolved to the consumer's satisfaction by their provider. A complaint is an expression of dissatisfaction made by a consumer where a response or resolution is explicitly or implicitly expected.

<sup>44</sup> Section 52(3) of the Act.

consumers. This includes the requirement that certain providers<sup>45</sup> issue ADR letters, informing consumers of the right to access ADR, if a complaint has not been resolved to the consumer's satisfaction within 8 weeks, or before then, if a complaint reaches deadlock.<sup>46</sup>

- 3.3 We last reviewed our rules facilitating access to ADR in 2016/17, as part of a broader review of our GCs. We decided to strengthen our deadlock letter rule, requiring providers to issue ADR letters when deadlock is reached, rather than at the request of a consumer. We also decided to maintain the timeframe before consumers can access ADR at 8 weeks, partly because we did not have sufficient evidence to justify a change at that time.<sup>47</sup> Prior to this, we reviewed these rules in 2008/9, where we decided to reduce the time consumers have to wait before they can access ADR from 12 weeks to 8 weeks.<sup>48</sup>
- 3.4 Since the timeframe for access to ADR was last reduced, the world has become more fast paced and digitalised, with instant communications becoming commonplace. This has led a number of stakeholders to argue that an 8-week timeframe for access to ADR is out of date in the modern age.<sup>49</sup> In July 2021, the UK Government published a consultation on competition and consumer policy, which considered reducing the timeframe before consumers can access ADR across markets where it is mandatory.<sup>50</sup> The Government decided that while it was not appropriate to reduce the 8-week timeframe across all sectors, it would continue to engage with regulators to explore the case for reducing the timeframe in individual sectors.<sup>51</sup>
- 3.5 In light of this, we think the time is right to take a look at our rules facilitating access to ADR as part of our review of ADR in the telecoms sector. In line with our section 52 duty, our objective is to secure that complaints handling and dispute resolution procedures relating to access to ADR are easy to use, transparent, non-discriminatory and effective. In this section, we consider whether these rules are meeting that objective and if any changes are needed to address barriers to effective consumer access to ADR.
- 3.6 This section is set out as follows:
- we first outline stakeholder responses to our 2023 CFI;
  - we then assess if our rules facilitating access to ADR are meeting our objective; and
  - finally, we set out our proposals for improving access to ADR.

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<sup>45</sup> Any communication provider that provides public electronic communication services to consumers, microenterprise or small enterprise customers or not-for-profit customers (these terms are defined in the GCs).

<sup>46</sup> Paragraph 11 and 12 of the Code. Deadlock is reached if the provider has told the complainant of the outcome of its investigation into the complaint; the complainant has told the provider that they consider the proposed outcome does not resolve the complaint to their satisfaction and the provider does not intend to take additional steps to resolve the complaint to the complainant's satisfaction that would produce a different outcome.

<sup>47</sup> Ofcom, 2017. [Review of the General Conditions of Entitlement: Statement and Consultation](#).

<sup>48</sup> Ofcom, 2009. [Improving Access to Alternative Dispute Resolution](#).

<sup>49</sup> For example, MoneySavingExpert's reports [Sharper Teeth: The Consumer Need for Ombudsman Reform](#) (2017) and [Justice Delayed: The Case for Shortening the Ombudsman 8-week rule](#) (2019) and Which's 2021 report [Are Alternative Dispute Resolution schemes working for consumers?](#)

<sup>50</sup> Department for Business, Energy and Industry Strategy ('Department for BEIS'), 2021. [Reforming Competition and Consumer Policy](#).

<sup>51</sup> Department for BEIS, 2022. [Reforming Competition and Consumer Policy: Government Response](#).

## Stakeholder responses to our 2023 CFI

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- 3.7 In our 2023 CFI, we said that we would consider the functioning of our rules which facilitate access to ADR. In particular, we said we would look at the timeframe before consumers can access ADR and how well ADR letters are working.
- 3.8 Several respondents (Comms Council UK, BT Group, the Federation of Communication Services ('FCS'), Gigaclear and Verastar) raised concerns about reducing the 8-week timeframe or said that it should be kept as is.<sup>52</sup>
- 3.9 FCS and Gigaclear said that complaints involving network infrastructure can take a while to resolve. FCS went on to suggest that any change to the 8-week timeframe should be accompanied by industry service level agreements, to enable providers to resolve such complaints within a shorter period.<sup>53</sup> Verastar argued that a shorter timeframe would not allow providers sufficient time to resolve complaints, particularly those involving third-parties, and that this would result in a significant increase in the volume of complaints taken to ADR. Similarly, BT Group said that a shorter timeframe would not give providers enough time to properly evaluate complaints and help consumers.<sup>54</sup>
- 3.10 [X] said that it expected us to refer back to our previous analysis on the 8-week timeframe in 2016, where we decided that a shorter timeframe was not appropriate at that time.<sup>55</sup> Relatedly, Comms Council UK suggested that we consider whether 4 weeks is sufficient time for providers to resolve complaints.<sup>56</sup>
- 3.11 Consumer Council Northern Ireland and Which? argued that the 8-week timeframe should be reduced. Which? mentioned that in its 2021 research study, 81% of consumers expressed support for a timeframe of 4 weeks or less before a complaint could be taken to ADR, while 19% were in favour of a timeframe of more than 4 weeks. Which? also said that the length of reduction to the timeframe would depend on how long providers typically take to resolve complaints as well as the use of deadlock letters.<sup>57</sup>
- 3.12 We have taken into account stakeholder comments in relation to the timeframe to access ADR when assessing the evidence on providers' complaint resolution times and whether the 8-week timeframe continues to meet our objective.
- 3.13 [X] stressed that smaller providers should be allowed enough time to try and resolve complaints. It suggested a tiered approach to the timeframe with larger providers having less time than smaller or medium size providers. It also said that providers should remain in control of their processes and procedures relating to complaints handling.<sup>58</sup>

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<sup>52</sup> Comms Council UK response to the 2023 CFI, p. 2; [BT Group response to the 2023 CFI](#), pp. 1-2; [FCS response to the 2023 CFI](#), p. 2; [Gigaclear response to the 2023 CFI](#), p. 1-2; [Verastar response to the 2023 CFI](#), p. 1; [BT Group response to the 2023 CFI](#), pp.1-2.

<sup>53</sup> [FCS response to the 2023 CFI](#), p. 2; [Gigaclear response to the 2023 CFI](#), p. 1-2.

<sup>54</sup> [Verastar response to the 2023 CFI](#), p. 1; [BT Group response to the 2023 CFI](#), pp. 1-2.

<sup>55</sup> [X] response to the 2023 CFI, p. 1.

<sup>56</sup> Comms Council UK response to the 2023 CFI, p. 2.

<sup>57</sup> [Consumer Council for Northern Ireland response to the 2023 CFI](#), p. 4; [Which? response to the 2023 CFI](#), pp. 3-4.

<sup>58</sup> [X] response to the 2023 CFI, p. 2.

- 3.14 In response to [38], we note that our analysis below focuses on the main telecoms providers, namely BT Group, Sky, TalkTalk, Three, Virgin Media O2 ('VMO2') and Vodafone. This is because most consumers that access ADR are customers of these providers. We have not explored whether a tiered approach to the timeframe for access would be appropriate, as we think it would unduly discriminate against customers of certain providers, and therefore would not be in line with our objective. While we agree that providers should have a certain degree of autonomy over their complaints handling procedures, as explained above, we have a duty to ensure that they are easy to use, transparent, non-discriminatory and effective.
- 3.15 CO said that we should consider broadening the scope of who can access ADR. It noted that the Financial Conduct Authority has enabled businesses with up to 50 employees to access the Financial Ombudsman Service and that Ofgem and the Department for Energy Security and Net Zero are also considering whether to expand the Energy Ombudsman's remit.<sup>59</sup> We set our rules around access to ADR pursuant to our duty in section 52 of the Act, which requires us to secure procedures for complaints handling and dispute resolution for "domestic and small business customers". In brief, the Act defines "domestic and small business customers" as a customer who is neither a communications provider nor a business with more than ten workers.<sup>60</sup> We have therefore not taken forward the suggestion to expand the scope of those businesses able to access ADR as part of this consultation.

## Analysis of our rules facilitating access to ADR

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- 3.16 When competition is working well, most consumers that have a reason to complain should be able to resolve their complaint with their provider quickly and effectively. However, sometimes a provider and consumer may not be able to agree a resolution to a complaint. Where this happens, ADR gives consumers another route to resolve their complaint without having to go to court, which can be expensive and time consuming. It is therefore important that consumers are given access to ADR where their provider cannot resolve their complaint in a timely manner and that they have the right information to be able to do so. A consumer may experience significant harm if they are unable to resolve their complaint with their provider and access to ADR takes longer than it should or there are barriers in place, as their complaint may remain unresolved or be unduly delayed.
- 3.17 We currently have several rules in place to facilitate access to ADR for consumers, including:
- Certain providers<sup>61</sup> must be members of an Ofcom-approved ADR scheme and comply with the scheme, including abiding by any final decision.<sup>62</sup>
  - These providers must issue ADR letters, informing consumers of the right to access ADR, if a complaint has not been resolved to the consumer's satisfaction within 8 weeks, or before then, if a complaint reaches deadlock.<sup>63</sup>

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<sup>59</sup> [CO response to the 2023 CFI](#), p. 1.

<sup>60</sup> Section 52(6) of the Act.

<sup>61</sup> Any communication provider that provides public electronic communication services to consumers, microenterprise or small enterprise customers or not-for-profit customers (these terms are defined in the GCs).

<sup>62</sup> C4.3(a) and (b) of the GCs.

<sup>63</sup> Paragraph 11 and 12 of the Code.

- ADR letters must state: i) that the consumer has the right to access ADR at no cost to them; ii) the name and contact details of the scheme to which the provider is a member; and iii) that the scheme is independent of the provider.<sup>64</sup>
- When telling a consumer the outcome of an investigation into their complaint, providers must give the consumer the contact details of the scheme of which the provider is a member.<sup>65</sup>
- Providers must include certain information in bills, specifically the name and contact details of the relevant scheme, that the scheme offers independent dispute resolution at no cost to the consumer and that the scheme can normally be accessed 8 weeks after raising a complaint with the provider.<sup>66</sup>

3.18 Reflecting our section 52 duty, this subsection sets out our assessment of whether the above rules are meeting our objective of securing that procedures relating to access to ADR are easy to use, transparent, non-discriminatory and effective. We focus our analysis on the extent to which our rules are ensuring that procedures facilitating access to ADR are effective, as we consider that this is the most relevant aspect of our section 52 duty for this assessment. Where appropriate, we consider the other parts of this duty, but not all aspects are relevant for the assessment of each rule.

## The timeframe for access to ADR

3.19 An important part of effective dispute resolution is the amount of time a provider is given to resolve the complaint before consumers can access ADR. For a consumer to be eligible for ADR, they must first raise a complaint with their provider and give them an opportunity to resolve it. This is a common feature of ADR across sectors in the UK, which recognises that most complaints can be resolved quickly and effectively by providers. However, as explained previously, where this is not possible, it is important that consumers have prompt access to ADR. For ADR to be effective, a balance must therefore be struck between allowing providers sufficient time to resolve complaints and giving consumers access to ADR within a reasonable timeframe.

3.20 Our current rules allow consumers to take a dispute to ADR 8 weeks after raising a complaint with their provider or, before then, if the complaint reaches deadlock.<sup>67</sup> Below, we consider whether this timeframe remains appropriate in today's market. We begin by analysing the evidence on how consumer complaints are being handled by providers, including the time taken for providers to resolve complaints and the use of deadlock letters. We then draw on this analysis to assess whether the timeframe is meeting our objective.

## Consumer experience of providers' complaints handling

### Consumer satisfaction with complaint handling

3.21 Ofcom's Comparing Customer Service (CCS) report suggests that there is room for improvement in the way providers handle complaints. Our complaints handling research found that only around half of mobile, broadband and landline customers who complained

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<sup>64</sup> Paragraph 13 of the Code.

<sup>65</sup> Paragraph 9(b) of the Code.

<sup>66</sup> Paragraph 26 of the Code.

<sup>67</sup> Paragraph 11 and 12 of the Code.

to their provider in 2022 were satisfied with the way their provider dealt with their complaint. The highest score for a provider in this category was 56%, indicating that this is a market-wide issue. 34% of customers in each sector provided a neutral response. There were similar results when we asked the question previously in 2021.<sup>68</sup>

- 3.22 As part of the 2023 CCS report, we commissioned BVA BDRC to undertake qualitative research into customers that had complained to their provider, to better understand factors that contribute to a positive or negative complaint handling experience. The research suggests that the time taken on the complaint was an important factor that contributed towards a positive consumer complaint experience, with participants preferring a short and efficient experience.<sup>69</sup>

**Most consumers are having their complaints resolved by their provider within 4 weeks and an even greater proportion are receiving a resolution from their provider by 6 weeks**

- 3.23 Earlier this year, we issued statutory information requests to the main providers in the telecoms sector: BT Group, Sky, TalkTalk, Three, VMO2 and Vodafone. We requested, among other information, the number of complaints they received between 1 January 2022 and 1 January 2024 ('the review period') and how many of these complaints were resolved<sup>70</sup> by them within certain timeframes.<sup>71</sup> Our analysis of this data is presented in figure 1, which shows the proportion of all complaints received that were resolved by the providers within certain timeframes.
- 3.24 We are aware that the providers have different procedures in place for handling complaints. The nature of the complaints that providers deal with also varies, particularly as some offer both mobile and broadband packages while others provide only one of these services. These factors may account, at least in part, for the variation in complaint resolution times and use of deadlock letters, as explored below. It is also worth noting that providers' complaint resolution times may vary, but this does not necessarily mean that some providers are not complying with our current rules.

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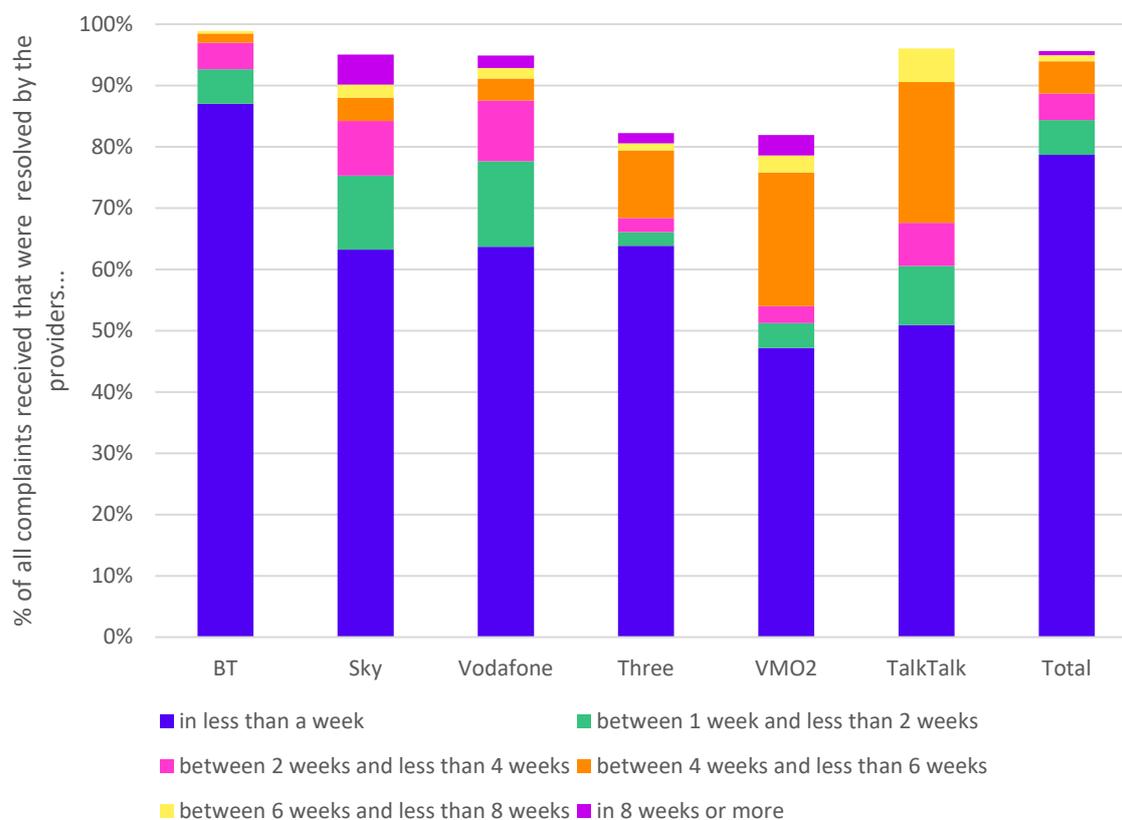
<sup>68</sup> 2023, Ofcom. [Comparing customer service: mobile, landline and home broadband](#).

<sup>69</sup> BVA BDRC, 2023. [Complaints handling experience: qualitative insight](#).

<sup>70</sup> By resolved, we mean that the consumer has confirmed that the complaint has been resolved to their satisfaction, or it is reasonable for the provider to assume that the complaint has been resolved to the consumer's satisfaction as the provider has told the consumer the outcome of its investigation and the consumer has not come back to them within 28 days to say that the complaint has not been resolved.

<sup>71</sup> The timeframes were as follows: i) in less than a week; ii) between 1 week and less than 2 weeks; iii) between 2 weeks and less than 4 weeks; iv) between 4 weeks and less than 6 weeks; v) between 6 weeks and less than 8 weeks; and vi) 8 weeks or more. BT Group provided information for the period of 1 January 2023 to 1 January 2024. BT Group's yearly data was compared to a yearly average of the two-year data supplied by the other providers. Three provided data for its business complaints team and residential consumers complaints team, as well as its sub-brand Smarty. We have focused our analysis in this section on the data from Three's residential consumer complaints team, as residential consumers make up the vast majority of Three's customer base.

**Figure 1: Percentage of total complaints received that were resolved by the providers within certain timeframes**



Source: Ofcom analysis of providers' data<sup>72</sup>

3.25 The data in figure 1 suggests that most consumers who raise a complaint are having it resolved quickly by their provider. For the review period, a significant majority (79%) of all complaints received by the providers were resolved within less than a week and a large majority (89%) of complaints were resolved by 4 weeks. However, these figures vary significantly between providers, indicating that consumers are more likely to experience a slower resolution to their complaint with certain providers. While BT Group resolved 87% of complaints within a week and 97% by 4 weeks, VMO2 resolved 47% of complaints within the first week and 54% by 4 weeks.

3.26 This data also indicates that a substantial majority of consumers raising a complaint receive a resolution from their provider within 6 weeks. Across the providers, 94% of complaints were resolved by the 6-week mark. Again, these figures vary when broken down by provider. BT Group resolved 98% of complaints by 6 weeks, with Vodafone and TalkTalk resolving 91% within the same period. VMO2 resolved 76% of complaints within 6 weeks, with Three resolving 79% by the 6-week mark.

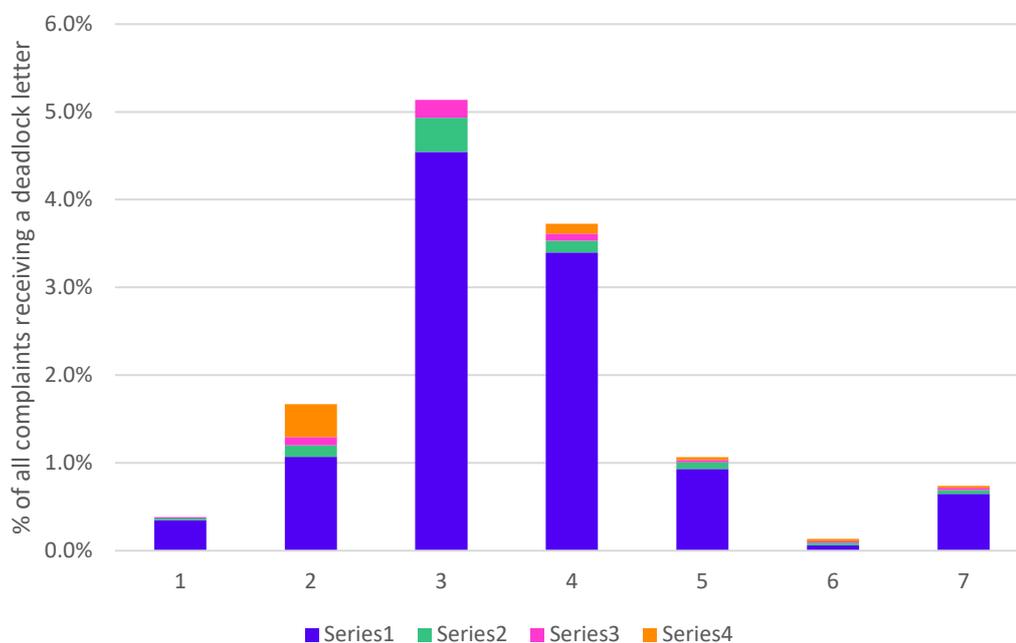
<sup>72</sup> Ofcom analysis based on: BT Group response to information requested under section 135 of the Act (the statutory information request) dated 3 May 2024; Sky response to the statutory information request dated 3 May 2024; TalkTalk response to the statutory information request dated 3 May 2024; Three response to the statutory information request dated 3 May 2024; VMO2 response to the statutory information request dated 3 May 2024; and Vodafone response to the statutory information request dated 3 May 2024.

3.27 Further, the data suggests that the vast majority of consumers can expect their complaint to be resolved by their provider within 8 weeks. 95% of complaints received were resolved by the provider by the 8-week mark. With the exception of Three and VMO2, who both resolved around 80% of complaints internally by 8 weeks, the proportions of complaints resolved by this point are fairly consistent across providers (ranging from 90% to 99%).<sup>73</sup>

**Only a small number of consumers are getting access to ADR ahead of the 8-week timeframe**

3.28 Our statutory information requests to the main providers also asked for data on the number of consumers that received deadlock letters over the review period and at what stage of the complaints journey these letters were sent. This data is significant as it shows whether consumers are being given access to ADR ahead of the 8-week timeframe and, if so, at what point in the process this is happening. Figure 2 sets out the percentage of total complaints received that were sent deadlock letters within particular timeframes.

**Figure 2: Percentage of total complaints received that were referred to ADR via deadlock**



Source: Ofcom analysis of providers' data<sup>74</sup>

3.29 The data in figure 2 suggests that only a very small proportion of consumers are gaining access to ADR ahead of the 8-week timeframe through deadlock. Across the main providers, only 0.7% of total complaints received over the review period were referred to ADR via deadlock. This varies between providers, with TalkTalk referring 0.1% of complaints to ADR using deadlock, whereas Three referred 3.7% of all complaints to ADR through

<sup>73</sup> The percentage of total complaints received which were resolved by providers over the review period does not reach 100% because some complaints were referred to ADR, either because they reached deadlock or the 8-week timeframe for access to ADR, and some remained unresolved.

<sup>74</sup> Ofcom analysis based on: BT Group response to the statutory information request dated 3 May 2024; Sky response to the statutory information request dated 3 May 2024; TalkTalk response to the statutory information request dated 3 May 2024; Three response to the statutory information request dated 3 May 2024; VMO2 response to the statutory information request dated 3 May 2024; and Vodafone response to the statutory information request dated 3 May 2024.

deadlock and Vodafone referred 5.1%. For some providers, the low proportion of complaints receiving deadlock letters reflects the high percentage of complaints resolved within 8 weeks.

- 3.30 In terms of when consumers are getting access to ADR via deadlock, figure 2 indicates that most deadlock letters are being sent within the first 4 weeks. Of the 0.7% of total complaints received by the providers that were sent a deadlock letter, 0.6% were sent by the 4-week mark, meaning that only 0.1% were sent after 4 weeks.

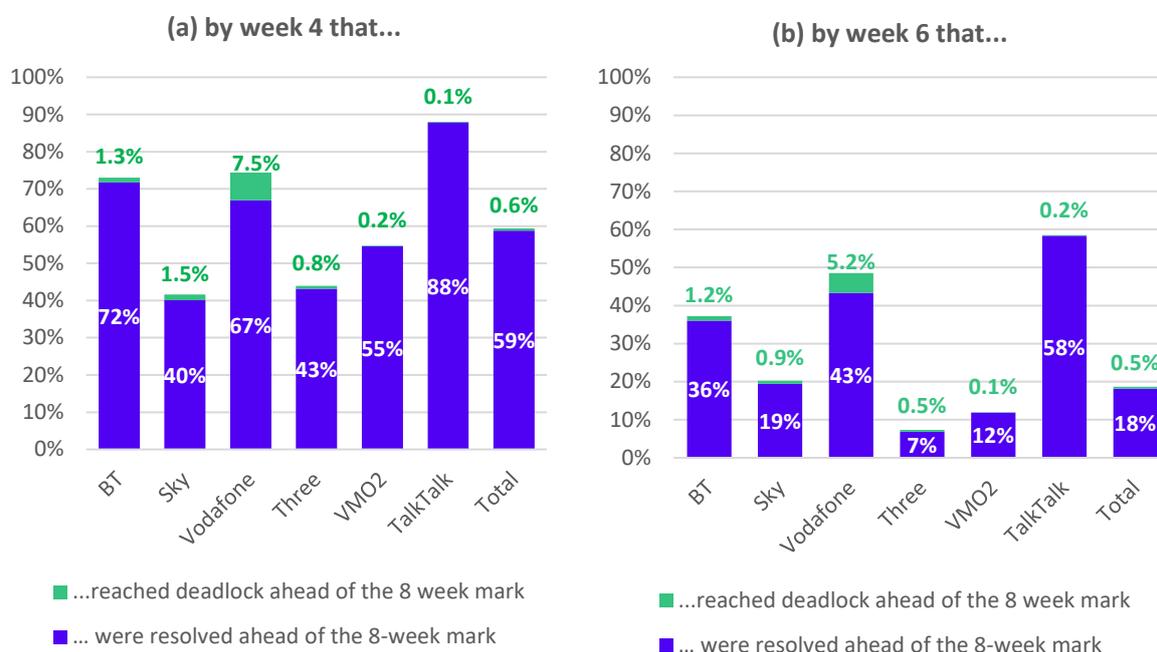
**Most consumers are having their complaints resolved by providers or referred to ADR via deadlock ahead of 6 weeks**

- 3.31 Taking figure 1 and figure 2 together, we estimate that 89% of consumers had their complaint either resolved by their provider or referred to ADR through deadlock within 4 weeks. This means that a significant minority (11%) of consumers had a complaint that was still open at 4 weeks, which amounts to about 1.4 million consumers.
- 3.32 By 6 weeks, 95% of all complaints received over the review period were resolved internally or referred to ADR. A smaller but still significant proportion of consumers (5%) had an open complaint at 6 weeks, which amounts to about 700,000 consumers.
- 3.33 When broken down by provider, these figures differ. On the one hand, 3% of BT Group's complaints remained open at 4 weeks, and 1% of consumers with BT Group had a complaint still open at 6 weeks. On the other hand, TalkTalk and VMO2 had 32% and 45%, respectively, of complaints still open at 4 weeks, and 9% and 23% remained open at 6 weeks.
- 3.34 Below, we explore the likelihood of these consumers achieving a resolution or referral to ADR ahead of the 8-week timeframe.

**For consumers whose complaint lasts longer than 6 weeks, the likelihood of it being resolved or referred to ADR ahead of the 8-week threshold is low**

- 3.35 We used the data supplied by providers on complaint resolution times and deadlock letters to calculate the proportion of complaints that remained open at certain milestones that were subsequently resolved or referred to ADR via deadlock before the 8-week threshold. This data is set out in figure 3. It gives us an indication of whether consumers that reach the 4-week or 6-week mark are experiencing good outcomes.

**Figure 3: Percentage of complaints that had not been resolved or referred to ADR at (a) 4 weeks or (b) at 6 weeks which were subsequently resolved or referred to ADR by 8 weeks**



Source: Ofcom analysis of providers' data<sup>75</sup>

3.36 The data in figure 3(a) indicates that once a complaint has reached the 4-week mark, the likelihood of it being resolved or referred to ADR via deadlock ahead of the 8-week threshold is quite high. For the main providers over the review period, over half (59%) of complaints that were unresolved at 4 weeks and had not received a deadlock letter were subsequently resolved or referred to ADR by the 8-week mark. Or, to put it another way, of the 1.4 million complaints that were still open at 4 weeks, about 840,000 complaints were resolved or referred by 8 weeks.

3.37 We looked at the breakdown of those complaints that remained open at 4 weeks. According to our data, about 700,000 (50%) of the 1.4 million complaints across all providers that were still open at the 4-week mark were resolved or referred by 6 weeks. This indicates that providers make good use of the 4-to-6-week period to resolve complaints or refer them to ADR.

3.38 We also looked at the breakdown of those complaints that remained open at 6 weeks (see figure 3(b)). We found that c.19% of these complaints were resolved or received a deadlock letter by 8 weeks. This means that out of the roughly 700,000 complaints that remained

<sup>75</sup> Ofcom analysis based on: BT Group response to the statutory information request dated 3 May 2024; Sky response to the statutory information request dated 3 May 2024; TalkTalk response to the statutory information request dated 3 May 2024; Three response to the statutory information request dated 3 May 2024; VMO2 response to the statutory information request dated 3 May 2024; and Vodafone response to the statutory information request dated 3 May 2024.

open at 6 weeks, about 570,000 did not have their complaint resolved or were not referred to ADR before the 8-week threshold. This suggests that when a consumer has a complaint that reaches the 6-week mark, the likelihood of achieving resolution or referral to ADR ahead of the 8-week threshold is low.

### **Research suggests consumers are not satisfied with the timeframe for access to ADR**

- 3.39 Consumers appear to be dissatisfied with the 8-week timeframe for access to ADR. Our consumer research found that while a minority of participants believed that 8 weeks or more was a fair threshold for access to ADR, the majority felt that 4 weeks or fewer would be a more appropriate timeline. Many argued that a month of an ongoing issue was long enough to justify access to ADR.<sup>76</sup>
- 3.40 These findings are echoed by previous external research, covering telecoms and other industries. Research by Money Saving Expert found that 89% of 2,069 adults said that they should have the right to go to an ombudsman within 28 days or less.<sup>77</sup> A survey of more than 10,000 consumers by Ombudsman Services (now CO) found that two in three consumers (64%) felt that the 8-week threshold was unfair.<sup>78</sup> A study by the Communications Consumer Panel (CCP) found that many participants thought that the timeframe was not ‘fit for purpose’; however, the sample size for this research was small (60 participants).<sup>79</sup>

### **We consider that the current timeframe is not effective in securing prompt access to ADR for some consumers**

- 3.41 Our analysis suggests that a large majority of the consumers that complain to their provider are having it resolved internally or referred to ADR via deadlock within 4 weeks and the vast majority are receiving a resolution or referral to ADR by 6 weeks. This indicates that 6 weeks is a reasonable amount of time for providers to resolve almost all complaints, irrespective of the type of issue raised. However, for consumers that have a complaint which is still open at the 6-week mark, the likelihood of their complaint being resolved or referred to ADR ahead of the 8-week threshold is low.
- 3.42 It follows that most of the consumers who wait longer than 6 weeks for a resolution could be experiencing better outcomes. The information we have gathered from providers suggests that they are generally not making sufficient use of the last 2 weeks of the current 8-week timeframe to resolve complaints or refer consumers to ADR via deadlock. This means that consumers with an open complaint at 6 weeks are unlikely to have it resolved or referred to ADR ahead of the 8-week timeframe. During that period, these consumers may continue to experience the harm or detriment associated with their complaint.
- 3.43 With this in mind, **we are concerned that the current timeframe is not effective in securing prompt access to ADR for these consumers, who as a result could suffer harm or detriment for longer than necessary.** We set out the options we have considered to improve the effectiveness of facilitating access to ADR, including our preferred option, later in this section.

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<sup>76</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 22.

<sup>77</sup> MoneySavingExpert, 2019. [The Case for Shortening the Ombudsman 8-week Rule.](#)

<sup>78</sup> Ombudsman Services, 2020. [CAM 2020: Consumer Action Monitor.](#)

<sup>79</sup> CCP, 2018. [Effective Problem and Complaints Handling – Reality or Illusion?.](#)

## Awareness of ADR

- 3.44 For consumers to be able to exercise their right to ADR, they need to know about it and how to access it. If a consumer is unaware of this and they are unable to resolve their complaint with their provider, they may think their options for redress are limited to the courts, meaning they may struggle to resolve their complaint or resolution may be unnecessarily delayed.
- 3.45 Our existing rules facilitating access to ADR include several requirements designed to make sure that consumers are made aware of ADR and how they can access it. This includes the requirement that providers signpost consumers to ADR when they become eligible, by issuing an ADR letter which contains the contact details of the scheme of which they are a member and other relevant information.<sup>80</sup> It also includes the obligation for providers to provide certain information on ADR in bills and when telling consumers about the outcome of an investigation into a complaint.<sup>81</sup>
- 3.46 In this way, providers play an important role in facilitating access to ADR for consumers. We explore below the extent to which our rules designed to raise awareness of ADR are enabling consumer access to ADR easily. Firstly, we set out our analysis of the evidence on how consumers are experiencing accessing ADR. In particular, we explore the proportion of eligible consumers that are receiving ADR letters and the content of these letters. And secondly, we consider whether these rules are meeting our objective.

## Consumer experience of accessing ADR

### Consumer awareness of ADR is low

- 3.47 On balance, it appears that consumer awareness of ADR, and their rights associated with it, is low, though we note this view is informed by research from several years ago. A 2016 study on consumer experiences of complaints handling commissioned by Citizen’s Advice found that 28% of consumers were aware of ADR in regulated sectors.<sup>82</sup> Research by the CCP in 2018 found that awareness of Ombudsman Services (‘OS’, now CO), but particularly CISAS, was generally poor across the sample.<sup>83</sup> And, OS, in a survey for its 2020 Consumer Action Monitor report found that only 3% of the consumers surveyed knew that energy and telecoms providers currently have eight weeks to resolve a complaint before it can be escalated to an ombudsman.<sup>84</sup>
- 3.48 In contrast, many of the participants in our consumer research said they were aware of ADR prior to their current complaint, and many were aware of the 8-week wait before they could access ADR.<sup>85</sup> However, these findings were from an informed group, with about a third of participants having previously applied to an ADR scheme, either in telecoms or another sector.<sup>86</sup>

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<sup>80</sup> Paragraph 11 to 13 of the Code

<sup>81</sup> Paragraph 9(b) and 26 of the Code.

<sup>82</sup> Citizens Advice, 2016. [Understanding Consumer Experiences of Complaint Handling](#).

<sup>83</sup> CCP, 2018. [Effective Problem and Complaints Handling – Reality or Illusion?](#).

<sup>84</sup> Ombudsman Services, 2020. [CAM 2020: Consumer Action Monitor](#).

<sup>85</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 11 and 22.

<sup>86</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 14.

## **Overall, some providers' signposting rates should be higher, but we are beginning to see signs of improvement**

- 3.49 Providers are required to issue ADR letters to consumers once they become eligible for ADR. We call this signposting, and the schemes monitor the proportion of consumers that access their services who were signposted by their provider. We sent statutory information requests to the schemes earlier this year requesting this information for each month of the review period, with breakdowns for their larger members.<sup>87</sup>
- 3.50 Overall, this data shows that there is room for improvement in some providers' signposting rates. Last year (1 January to 31 December 2023), 60% of all consumers that accessed CO's ADR services were signposted by their provider. This compares to 85% for the previous year. For CISAS, between 1 January 2023 and 31 December 2023, 78% of customers that accessed its services were signposted by their provider.
- 3.51 There is some variation between providers' signposting rates. BT and EE's (part of BT Group) monthly rates regularly exceeded 90% for the review period. Similarly, Vodafone and Sky's signposting rates were 89% and 87% respectively for the second half of the review period. On the other hand, Three's average signposting rate for 2023 was 68%, while O2 averaged 56% for 2023 and Virgin Media's signposting rate was 19% for the same period.<sup>88</sup> And, among CISAS' larger members, TalkTalk's average signposting rate was 58% for 2023.<sup>89</sup>
- 3.52 Importantly, these figures exclude the consumers that chose not to access ADR, so the proportion of all eligible consumers signposted may be even lower. It is also worth noting that CISAS' signposting figures are based on the information provided by the customer, which is taken on good faith, whereas CO ask the providers for evidence of signposting.
- 3.53 However, as part of our on-going programme of monitoring and compliance work, we have engaged with the larger providers with lower signposting rates. This has led to some success, which we can see reflected in the monthly information packs shared with us by the schemes, with some of these providers signposting a significantly higher proportion of consumers to ADR each month.<sup>90</sup> We are continuing to engage with the providers where their signposting rates need improvement.

## **Providers' ADR communications mostly include all the necessary information, with some exceptions**

- 3.54 Using our statutory information gathering powers, we requested current examples of ADR letters, outcome of investigation letters and bills from the main providers. We analysed these templates against our current requirements as set out in the Code. Generally,

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<sup>87</sup> Ofcom analysis based on: CO response to information requested under section 135 of the Act (the statutory information request) dated 3 May 2024; and CISAS response to the statutory information request dated 3 May 2024. For CISAS, the signposting figures are based on the information provided by the customer in when accessing ADR. We asked CO for breakdowns of their top 10 providers and CISAS' for their top 6 providers, in terms of complaints received by the schemes.

<sup>88</sup> Appropriately informing consumers of their right to access ADR is relevant to Ofcom's open investigation into [Virgin Media's compliance with its contract termination and complaint handling/facilitating access to ADR obligation](#) during 2022/23.

<sup>89</sup> Differences in providers' complaints handling procedures may account for this variation in signposting rates.

<sup>90</sup> This includes Three and TalkTalk.

providers' outcome of investigation letters, ADR letters and bills included all the required information on ADR, although a handful had missing or incorrect information.<sup>91</sup>

- 3.55 Of the outcome of investigation letters we reviewed, almost all had at least one method of contacting the relevant scheme, meaning that only a few did not have any contact information for ADR. A couple of letters gave contact details for Ombudsman Services (OS), which was the predecessor to CO.
- 3.56 Most of the main providers' ADR letters include all required information, including at least one method of contacting the relevant scheme. However, a number give OS' contact details, rather than CO's. O2's letters fail to mention that ADR is independent. And with Sky's 8-week and deadlock letters, the consumer's right to access ADR because the complaint has not been resolved could be more explicitly stated.
- 3.57 Most bills provided include the necessary information on ADR. However, again, a few providers gave OS' details, rather than CO's.
- 3.58 While these issues may indicate compliance with our rules could be improved, we consider that they are not a major barrier to consumers trying to access ADR. This is because OS' contact details are the same as CO's, excluding the web address, but OS' website re-directs visitors to CO's. And while we accept that not providing any contact details for the relevant scheme may make it challenging for a consumer to access ADR, we only observed this issue in a handful of letters.
- 3.59 Many participants in our consumer research said that while they learnt about ADR from their provider, the information was seen as more obligatory than providing helpful onwards advice.<sup>92</sup>

### **Take up of ADR among eligible consumers is low, but those that do access it find it valuable**

- 3.60 In the statutory information requests sent to the main providers earlier this year, we asked for information on the proportion of consumers that chose not to access ADR once referred. This data indicates that only a small proportion of consumers exercise their right to go to ADR after gaining access to it. For the review period, 13% of consumers across the main providers went on to access ADR once referred. This varies between providers, with only around 4% of the complainants referred by [X] accessing ADR, compared to [Y] where around 19% of referred consumers took their complaint to ADR.<sup>93</sup>
- 3.61 We do not have any evidence or information on the reasons why consumers are not accessing ADR. However, the consumers that do access ADR generally have a positive experience. As explained in more detail in Section 4, our consumer research found that,

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<sup>91</sup> Ofcom analysis based on: CO response to information requested under section 135 of the Act (the statutory information request) dated 3 May 2024; and CISAS response to the statutory information request dated 3 May 2024.

<sup>92</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 15.

<sup>93</sup> Ofcom analysis based on: BT Group response to the statutory information request dated 3 May 2024; Sky response to the statutory information request dated 3 May 2024; TalkTalk response to the statutory information request dated 3 May 2024; Three response to the statutory information request dated 3 May 2024; VMO2 response to the statutory information request dated 3 May 2024; and Vodafone response to the statutory information request dated 3 May 2024. We calculated the proportion of TalkTalk's consumers that chose to access ADR once referred differently to the other providers. We explain how we did this, and why, in Annex 7.

overall, many participants saw the ADR process as helpful and valuable. Many participants reported feeling exhausted by their experience of complaining to their providers, with some expressing a sense of relief and hope of a third-party getting involved.<sup>94</sup>

### While there are some potential compliance issues with our rules raising awareness of ADR, we consider these rules are meeting our objective

- 3.62 Our analysis shows that some providers need to improve in the way they make consumers aware of ADR, but we are starting to see improvements in signposting rates from some of these providers and we continue to engage with the providers where we see persistent low signposting rates. Moreover, as set out above, we have identified some minor issues with the content of the main providers' ADR letters, outcome of investigation communications and bills.
- 3.63 However, we are of the view that these issues do not raise concerns that our rules designed to raise awareness of ADR are not meeting our objective. We recognise that general awareness among consumers of ADR and their associated rights is low and that not knowing about ADR is a barrier to access. But our current rules raise awareness of ADR in a targeted way, as providers are required to issue ADR letters to all consumers at the point they become eligible, which include information on the name and contact details of the relevant scheme. It follows that, when applied correctly, we consider our rules are effective in facilitating consumer access to ADR and securing sufficient transparency of relevant complaints handling and dispute resolution procedures for consumers.
- 3.64 While we acknowledge that participants in our consumer research often said that ADR letters were more obligatory than helpful, we did not observe that the letters were complex to understand and note that this did not seem to prevent these consumers from accessing ADR. Also, in our own analysis of ADR communications from the main providers and the overall consumer journey, we did not identify any issues that gave us major concern that our rules are not appropriate to secure that the ADR procedures are easy to use.
- 3.65 Overall, we are of the view that the obligations we have imposed on providers relating to raising awareness of ADR remain **fit for purpose in securing that complaints handling and dispute resolution procedures are easy to use, transparent and effective**. Nevertheless, there is some room for improvement and, as explained below (see paragraph 3.102), we are proposing to engage with the main providers on these issues.

## Requiring providers to be members of an Ofcom-approved ADR scheme

- 3.66 Our rules currently impose an obligation on providers to be a member of an Ofcom-approved ADR scheme and to comply with the scheme, including abiding by any final decision made.<sup>95</sup>
- 3.67 We have been made aware of a number of providers that do not seem to be meeting this obligation, although the data we have does not suggest that this issue is widespread. Ofcom has received some complaints from consumers who have been unable to access ADR as their

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<sup>94</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 12.

<sup>95</sup> C4.3(a) and (b) of the GCs.

provider is not a member. From complaints raised between 1 November 2023 to 1 November 2024, we have identified 58 providers that we believe should have been a member of a scheme but were not.

- 3.68 Despite this, we consider that the current rule in GC C4.3 is clear and transparent, and therefore **sufficient for securing that procedures for facilitating access to ADR are effective**. We are of the view that this is an issue of non-compliance with the rule, rather than a problem with the rule itself.
- 3.69 We will continue to monitor any complaints received about this particular issue and engage with providers who we think may not be complying with their obligation to drive improvement. We will consider taking further enforcement action where appropriate, taking into account Ofcom's enforcement guidelines.<sup>96</sup>

## Our proposals to improve consumer access to ADR

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- 3.70 In light of our analysis, our view is that there is a strong case that the timeframe before consumers can access ADR needs to be strengthened. The evidence we have set out above indicates that for consumers that have an open complaint at 6 weeks, the likelihood of them receiving a resolution or referral to ADR via deadlock ahead of the 8-week threshold is low. We are concerned that the current timeframe is not effective in securing prompt access to ADR for these consumers and that as a result it's likely these consumers are suffering harm or detriment for longer than necessary. Our analysis has also brought to light concerns with providers' compliance with some of our existing rules, although we consider that these rules themselves meet our objective.
- 3.71 In this subsection, we consider options for addressing these issues, including strengthening our rules which facilitate access to ADR. This subsection begins by exploring options for addressing the concerns raised with the timeframe. We assess a number of options in light of our objective, which is to secure that procedures for complaint handling and dispute resolution relating to access to ADR are easy to use, transparent, non-discriminatory and effective. This subsection finishes by setting out our proposal to deal with the potential compliance issues we have identified.

## We have assessed several options for addressing the issues identified with the 8-week timeframe

- 3.72 We have explored a number of options to address the issues with our rule around the time before consumers can access ADR, which can be categorised as follows:
- a) maintain the 8-week timeframe but strengthen our rules on when to issue deadlock letters;
  - b) reduce the timeframe for access to ADR to 4 weeks; and
  - c) reduce the timeframe for access to ADR to 6 weeks.

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<sup>96</sup> Ofcom, 2022. [Regulatory Enforcement Guidelines for investigations](#).

## **We do not think that option A, maintaining the 8 week timeframe would address our concerns**

3.73 There are a few possibilities when it comes to strengthening our rules around deadlock letters. However, there are some fundamental flaws with each of these options which would hinder their ability to facilitate prompt and effective access to ADR. We present and analyse these options below.

- **Enabling consumers to request deadlock letters after 6 weeks**, could provide earlier access to ADR for the group of consumers we are concerned about. This could lead to quicker resolution of complaints for these consumers, given that our evidence suggests that the likelihood of their complaint being resolved between the 6-to-8-week period is low. However, as set out above, consumer awareness of ADR and their associated rights appears to be low. Therefore, we consider it is unlikely that many consumers would make use of this provision and benefit from swifter access to ADR.
- **Requiring providers to issue deadlock letters if no material progress has been made against a complaint after 6 weeks**, could also provide earlier access to ADR for the consumers we have concerns about. As per the previous option, this could benefit these consumers by leading to a faster resolution of their complaint. However, we consider that there would be complications defining what ‘no material progress’ means, as well as monitoring and enforcing this requirement. As such, we think it is unlikely that many consumers would be referred to ADR in this way, particularly in light of providers’ limited incentives to issue deadlock letters given that the costs of this process are higher than continuing to attempt to resolve a complaint internally.
- **Requiring providers to give an update on the progress of the complaint at 6 weeks and giving consumers the option to request a deadlock letter at this point** could provide earlier access to ADR for the underserved consumers we identified in our analysis. This could improve the outcomes for this group of consumers, by allowing them to access ADR earlier if they are not satisfied with the progress that has been made against their complaint or the provider’s proposed next steps. But, in light of consumers’ low awareness of ADR, for this intervention to be effective, providers would have to be required to inform consumers of their right to access ADR at the point they provide the update and give them the necessary information to do so. We consider that this would effectively reduce the threshold for access to ADR to 6 weeks.

3.74 We have also considered whether these options would address our concerns if set at 4 weeks, rather than 6 weeks. For consumers that are given deadlock letters at 4 weeks and access ADR at this point, we consider that this may actually result in poorer outcomes, for the reasons set out in paragraph 3.75 to 3.77 below.

## **We are concerned that option B, reducing the timeframe for access to ADR to 4 weeks, could potentially delay the resolution of a complaint for some consumers**

3.75 Our analysis suggests many providers can resolve most complaints within 4 weeks. Over the review period, 3 of the 6 providers that we requested data from resolved over 80% of complaints by the 4-week mark. BT Group resolved 97% of all complaints received by 4 weeks, while Vodafone resolved 88% by this point and Sky 84%. Arguably, this shows that 4 weeks is enough time for a large majority of complaints to be resolved in.

- 3.76 However, our analysis also indicates that some providers are resolving a significantly lower proportion of complaints within this period. VMO2 resolved 54% of complaints by 4 weeks, and TalkTalk and Three resolved around 68% of complaints within 4 weeks. Further, providers seem to be making good use of the 4-to-6-week period to resolve complaints. Across the board, providers resolved 5% of complaints within this timeframe, compared to 1% between 6 week and 8 weeks. This is particularly true of VMO2 and TalkTalk, who resolved 22% and 23% of complaints within this timeframe.
- 3.77 Taken together, these figures suggest that some providers may struggle to meet a 4-week threshold for some complaints, meaning that a disproportionate number of complaints may become eligible for ADR if the threshold was reduced to this point. This could result in a significant increase in costs to handle complaints for these providers. And, for consumers that have an unresolved complaint at 4 weeks, the likelihood of it being resolved by 6 weeks is quite high. So, while these consumers are waiting longer than most for a resolution, they are generally more likely to achieve a quicker resolution to their complaint with their provider. This is because accessing ADR at this point could add a further 6 to 8 weeks before a resolution is determined by the scheme with an additional 28 days for providers to implement the remedy. For these reasons, we do not think that reducing the timeframe to 4 weeks would address our concerns.

**We consider that option C, reducing the timeframe for access to ADR to 6 weeks, would address our concerns and deliver benefits for consumers**

- 3.78 Our analysis suggests that most consumers waiting longer than 6 weeks for a resolution to their complaint or referral to ADR are typically not having their complaint resolved or referred ahead of the current 8-week timeframe. Therefore, their complaint, and any associated harm, may continue for an unnecessary two weeks before being able to access ADR. We are concerned that these consumers are not being given prompt access to ADR and an 8-week timeframe is not effective in facilitating access for these consumers.
- 3.79 Our provisional view is that reducing the timeframe for access to ADR to 6 weeks would be an effective way of dealing with our concerns. This intervention would directly address the issues we have identified with these consumers, by providing them with access to ADR at this point and speeding up the pathway to a resolution for most of them. We consider that it would also allow providers a reasonable amount of time to resolve complaints, across all complaint types, given our findings that 4 of the 6 providers we obtained data from resolved at least 88% of complaints within a 6-week timeframe.
- 3.80 In addition, we consider that this option would bring several other benefits to consumers. We think that reducing the timeframe for access to ADR to 6 weeks could encourage providers to improve their complaints handling procedures, more generally. If a complaint goes to ADR, this imposes an additional cost on the provider, as they are required to pay for this service, and there are costs involved in defending a case (if the provider chooses to do this) as well as possibly providing a remedy (as decided by the scheme). Providers are therefore incentivised to resolve complaints ahead of the threshold, and reducing the timeframe should strengthen these incentives.
- 3.81 For the same reason, providers' incentives to tackle the root causes of complaints are also likely to be enhanced. It follows that reducing the threshold for access to ADR to 6 weeks could also encourage providers to improve the quality of their general service.

3.82 We also consider that this option would provide benefits for consumers that decide not to access ADR despite being eligible. Once the threshold for access to ADR has been reached, consumers are not obliged to take their dispute to ADR and providers may continue to try and resolve the complaint. For these consumers, the incentives for providers to resolve complaints are further enhanced, as they are incentivised to try and resolve the complaint quickly before the consumer decides to take their complaint to ADR. Equally, the balance of power shifts in the consumer's favour at this point, as they have the option to walk away from a proposed resolution if it is not satisfactory. By reducing the threshold to 6 weeks, consumers would access these benefits sooner.

### **We are proposing to reduce the timeframe for access to ADR to 6 weeks**

3.83 For the reasons outlined above, we are proposing to reduce the timeframe before consumers can access ADR from 8 weeks to 6 weeks. This would require all relevant providers to issue ADR letters, informing consumers of their right to access ADR, if a complaint has not been resolved to the consumer's satisfaction 6 weeks after it was first raised. Providers would still be required to issue ADR letters before this point if a complaint reaches a state of deadlock. They would also be required to make a number of changes to their complaint codes and bills, to ensure that the new timeframe is transparent to consumers. We set out in Annex 5 the exact changes to GC C4 that we are proposing.

## **Impact Assessment: reducing the timeframe for access to ADR to 6 weeks**

3.84 Section 7 of the Act places a duty on Ofcom to undertake impact assessments where a proposal would result in a major change to our activities or be likely to have a significant effect on businesses and the public. Section 7(4) of the Act specifies that when carrying out an impact assessment, we must consider how, in our opinion, the performance of our general duties under section 3 of the Act would be secured or furthered by our proposal. This subsection sets out our impact assessment for our proposal to reduce the timeframe for access to ADR from 8 weeks to 6 weeks.

3.85 There are a number of duties under section 3 of the Act that we have taken into account in making our proposal,<sup>97</sup> but briefly these include:

- Our principal duty in section 3(1) of the Act to further the interests of citizens and consumers.
- The requirement in section 3(3)(a) of the Act for all our regulatory activities to be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.
- Matters identified in section 3(4) of the Act as they appear to us to be relevant in the circumstances, including the desirability of promoting and facilitating the development and the use of effective forms of self-regulation and the opinions of consumers in relevant markets and of members of the public generally.
- Our duty in section 3(5) of the Act to have regard to the interests of consumers in respect of quality of service, among other things.

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<sup>97</sup> See section 2 for some further details on our duties.

- 3.86 For the reasons explained above in paragraph 3.78 to 3.79, we consider our proposal would ensure that there is effective and prompt access to ADR for consumers. Additionally, as explained above, some consumers are calling for a shorter timeframe for access to ADR. We therefore consider that our proposal will not only meet our objective to secure that procedures facilitating access to ADR are easy to use, transparent, non-discriminatory and effective, but we also believe this will further the interests of citizens and consumers. Paragraph 3.80 to 3.82 further explains the benefits of our proposal.
- 3.87 While providers may choose to handle complaints faster than the timeframe stated under our GCs, and some do so, our analysis indicates that there are a number of complaints that remain open past the 6-week mark that are not resolved or referred to ADR via deadlock within the 8-week threshold. Therefore, we consider that further regulatory intervention would be the most appropriate option to achieve prompt access to ADR, and prompting self-regulation is not appropriate.
- 3.88 In the rest of this subsection, we consider whether reducing the timeframe for access to ADR to 6 weeks would be proportionate.

### **We consider that our proposal is proportionate in light of our objective**

- 3.89 As set out above, we consider that reducing the timeframe for access to ADR would benefit consumers in a number of ways. This includes benefits that are likely to be felt right away for those consumers whose complaints are currently lasting longer than 6 weeks. For those choosing to take their complaint to ADR, this would likely shorten the overall time taken to resolve their complaint.
- 3.90 Moreover, once the ADR threshold is reached, the incentives for providers to resolve complaints are strengthened and the balance of power between the consumer and provider changes in the consumer's favour. This is because, at this point, the onus is on the provider to convince the consumer that their complaint will be dealt with quicker and more effectively by them, but they have the option to walk away from a remedy offered and seek a resolution through ADR. By reducing the threshold to 6 weeks, consumers would be able to access these benefits sooner.
- 3.91 We also see the potential for longer term benefits, resulting from shifts in the behaviour of providers. Reducing the timeframe is likely to encourage providers to resolve complaints sooner and improve their complaints handling procedures, more generally, to avoid a significant increase in ADR costs. Providers may also become more incentivised to improve the general quality of their services, to avoid complaints being raised in the first place which may then reach the threshold for referral to ADR. If this materialises, it would positively impact a large number of consumers.
- 3.92 We recognise that lowering the timeframe for access to ADR may increase providers' overall costs to handle complaints, as the number of complaints which access ADR may increase. If these cost increases are significant, they may be passed onto consumers as higher prices. Greater uncertainty and higher ongoing costs could also have negative effects on investment, innovation and competition, which may impact the quality and price of services available.
- 3.93 However, as mentioned previously, consumers appear to not be satisfied with the current timeframe for access to ADR, and they have an expectation that the time period for reaching ADR should be shorter. The timeframe for access to ADR has not changed since 2009, while

expectations of reasonable complaints handling timeframes are likely to have increased, as the pace and choice of communications channels have developed and the use of technology by providers has expanded. This suggests that consumers want faster complaints handling even if it were to lead to some increase in costs of services.

- 3.94 We have estimated, at a high level, how substantial the increase in providers' costs to handle complaints would be if we reduced the timeframe for access to ADR to 6 weeks. Our key findings from this analysis, and the methodology we used, are set out in Annex 7. We estimate that the cost of reducing the threshold to 6 weeks would increase complaints handling costs across the 6 main providers by about £3.5 million per year (or 2.2% compared to current costs of handling complaints). If these costs were fully passed on to consumers, we estimate that the yearly average increase in expenditure for households would be 11 pence. However, for some providers the estimated costs would be higher but still not significant. We estimate that for [X] the increase would be [X] of current complaint handling costs and for [X] it would be [X] of current complaint handling costs.
- 3.95 These figures are our estimates of the extra costs of complaints which might access ADR, relative to the internal costs to the providers of continuing to attempt to resolve cases after 6 weeks. At this stage, we have not been able to estimate the one-off costs of changing the timeframe to six weeks. These would be the costs to the providers of changing their procedures and retraining their staff.
- 3.96 It is also difficult to know what the knock-on impacts of these changes would be, such as whether consumers would increase the rate at which they went to ADR, which would raise costs. And providers may become more efficient in their complaints handling procedures. While this may involve upfront investment costs, it could lower ongoing costs over the longer term.
- 3.97 Similarly, we acknowledge that consumer outcomes could also be negatively affected if the schemes' processes are put under strain from an increase in ADR cases. If lowering the timeframe for access to ADR significantly increases the number of disputes that consumers take to ADR, this could put their processes and resources under strain. However, we consider that the schemes should be able to manage an increase in cases. In Section 4, we have found that both schemes are broadly performing well. Moreover, we are aware that the schemes' operating models allow them to bring in extra case officers or adjudicators to handle sudden increases in case volumes. Therefore, we consider reducing the timeframe for access to ADR to 6 weeks would be unlikely to negatively impact consumers in this way.
- 3.98 Overall, while we acknowledge the modest increases in costs to handle complaints on providers, particularly for certain providers, we consider that the benefits of our proposal are likely to outweigh the potential negative effects. Therefore, our provisional view is that our proposal is proportionate in light of our policy objective.

## **Proposed implementation period for the revised rule**

- 3.99 If we ultimately decide to make the changes to GC C4 described above, we propose an implementation period of 6 months. In order to meet the requirements of our proposal, we consider that providers would have to make a number of changes, including updating internal guidance and process manuals, briefing complaints handling teams, updating external information on ADR (e.g. their codes of practice) and amending existing ADR

communications (such as bills and ADR letters). We are of the view that 6 months is sufficient time to allow providers to undertake these tasks.

## Proposed changes to GC C4 – the legal tests

3.100 Section 47(2) of the Act sets out the legal tests to be met before we can set or modify a GC. In particular, we can set or modify GCs where we are satisfied that the condition or modification is: i) **objectively justifiable** in relation to the networks, services, facilities, apparatus or directories to which it relates; ii) **not unduly discriminatory** against particular persons or against a particular description of persons; iii) **proportionate** to what the condition or modification is intended to achieve; and iv) **transparent** in relation to what it is intended to achieve.

3.101 We consider that our proposal to modify GC C4 meets the legal tests, as these changes are:

- **objectively justifiable**, for the reason set out between paragraph 3.78 to 3.79 and 3.86 to 3.87. Additionally, keeping in mind our analysis, we consider that shortening the timeframe for accessing ADR should reduce any harm or detriment suffered while waiting to access ADR and thus protect consumers. We also consider that our proposal will secure that complaints handling and dispute resolution procedures are easy to use, transparent non-discriminatory and effective.
- **proportionate**, for the reasons set out in paragraph 3.89 to 3.98 above. We consider that the proposed modification goes no further than is necessary to facilitate prompt access to ADR and secure that complaints handling and dispute procedures are effective. We have considered other options for addressing the concerns we have identified and have explained why our proposed approach would be the most effective.
- **not unduly discriminatory**, as they apply to all providers of public electronic communications services and relevant consumers; and
- **transparent**, as the rationale and potential impact for these changes are explained in this document and if implemented, the changes will be reflected in the GCs we publish.

## We will engage with providers on several issues with how they facilitate access to ADR

3.102 To address the minor issues with have identified in our analysis with providers' ADR letters, outcome of investigation letters and bills, we intend to engage with the main providers. We will work with them to ensure that the necessary improvements are made to their ADR communications. Given that the scale of these issues is minor, and that we have not identified any concerns with our rules around raising awareness of ADR themselves, we consider that this action is proportionate.

3.103 We will also continue to monitor the complaints received by our Consumer Complaints Team and engage with providers who we consider are not members of a scheme but should be.

## Consultation questions

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**Question 1:** Do you agree with our provisional analysis of whether our rules which facilitate access to ADR are meeting our objective?

**Question 2:** Do you agree with our proposal to modify the GCs to reduce the timeframe for access to ADR to 6 weeks?

**Question 3:** Do you agree with the findings of our provisional impact assessment?

**Question 4:** Do you agree with our proposed implementation period?

Please provide explanations and/or evidence in support of your views.

# 4. Re-approval of the schemes under the Act

## Purpose of this section

Under the Act, we are required to keep our approvals of the two schemes under review by assessing whether the schemes still satisfy the relevant approval criteria of accessibility, independence, fairness, efficiency, transparency, effectiveness, accountability, non-discriminatory and consistency.

## In summary

We propose to re-approve the schemes against the approval criteria set out under the Act. We are satisfied that both schemes are operating well and the differences between the schemes do not have a detrimental impact on outcomes for consumers. We have identified a small number of improvements that schemes can implement to improve the consumer experience and improve outcomes. We are working with the schemes to discuss these changes and we expect these to be implemented promptly.

## Background

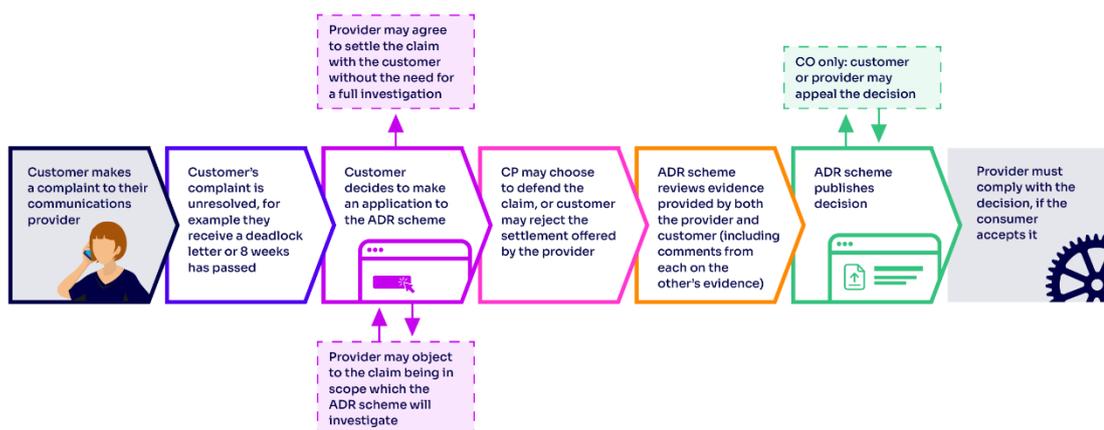
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- 4.1 In our 2023 CFI, we said we would look comprehensively at the consumer journey through the ADR process, to help us assess whether consumers are receiving accessible, fair and consistent outcomes. This would include the consumer experience of engaging with both schemes.
- 4.2 Figure 4 provides a simple, high-level summary of the consumer journey through ADR. However, readers should refer to the regulatory framework (see Section 2) and the schemes' rules for further detail.<sup>98</sup>

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<sup>98</sup> CISAS, 2024. [Communications & Internet Services Adjudication Scheme \(CISAS\) Scheme Rules](#). [CO's Terms of Reference](#). CO. [Terms of reference – Communications sector](#).

**Figure 4: Summary of the consumer journey through ADR**



- 4.3 We have considered the consumer journey through the various stages of the schemes' processes, from when a case is first logged, to receiving a decision. This assessment includes a variety of cases from different categories, such as cases where early settlement was offered.
- 4.4 While there were some differences identified in each of the schemes' processes, it is important that consumers receive fair treatment and consistent quality of service regardless of which scheme they are referred to. Some consumers will be taking a case to ADR for the first time, so it is important that they receive the appropriate guidance and support at different stages of the process.
- 4.5 In our 2023 CFI, we said we would look at whether there were areas where the schemes could be more transparent about the cases that they handle to positively improve complaints handling and support our oversight of both providers and the schemes. We agreed to review the range and quality of the data provided to Ofcom and the data that the schemes publish.
- 4.6 We monitor the schemes' performance primarily through a set of Key Performance Indicators (KPIs) we set for the schemes, which we publish on our website on a quarterly basis.<sup>99</sup> In our 2023 CFI, we set out our plans to review the KPIs we set for the schemes, including whether they are focused on the right areas and set at appropriate levels.

## How we have assessed the schemes

- 4.7 Through sections 52(3) and 54(2) of the Act, we have devised approval criteria. We are required to assess the schemes' performance against these key areas when assessing if we should re-approve the schemes as part of this review. The approval criteria are: accessibility, independence, fairness, efficiency, transparency, effectiveness, accountability and non-discriminatory. In addition to these criteria, we will assess whether there is consistency between the two schemes in line with section 54(7)(b) of the Act.

<sup>99</sup> Ofcom, 2024. [ADR schemes' performance](#).

- 4.8 In our 2023 CFI, we stated we would look at our approvals of both schemes under the Act only.<sup>100</sup> We explain the current regulatory framework in greater detail in Section 2, including the outcome of our assessment of the schemes against the ADR Regulations 2015 in April 2024, and how the DMCC Act, which has come into force since May 2024, replaces the ADR Regulations.
- 4.9 In order for us to assess the schemes against the re-approval criteria under the Act, we commissioned Jigsaw to undertake a qualitative consumer research study to look at the consumer experience of using the schemes, and Lucerna to undertake a case review based on a sample of cases that were selected from both schemes. Definitions of the different case types, the stages of a case, and case outcomes that were considered as part of our research are included in the case review report.<sup>101</sup> We commissioned these reports to allow us to consider:
- consumers’ ease of navigating the ADR process; and
  - whether consumers are receiving fair and consistent outcomes from both schemes.
- 4.10 We also have information the schemes made available to us and the information the schemes provided as part of the ADR Regulation re-approvals that we made in April 2024 to understand:
- if the schemes could be more transparent about the cases they handle; and
  - if Ofcom’s oversight of ADR is incentivising good outcomes for consumers.
- 4.11 Both schemes are also expected to follow the decision-making principles which were published following the 2012 review of schemes and were introduced as a condition of re-approval for both schemes.<sup>102</sup> We have considered these decision-making principles in our assessment of both schemes and whether these remain effective and relevant.
- 4.12 In this section, we cover:
- our findings on the consumer experience through the ADR process;
  - our assessment on the transparency and oversight of the cases the schemes handle;
  - our review of the 2012 decision-making principles; and
  - our assessment of our re-approval of the schemes against the approval criteria.

## Stakeholder responses to our 2023 call for inputs

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- 4.13 The majority of respondents agreed with our aim to focus on the consumer experience of the schemes, including the key areas we mentioned in our 2023 CFI.<sup>103</sup> VMO2 and CO both agreed with our approach to look at consistency between both schemes.<sup>104</sup> FCS agreed with

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<sup>100</sup> Ofcom, 2023. [Call for Inputs: Review of ADR in the telecoms sector](#).

<sup>101</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, pp. 6 to 7.

<sup>102</sup> See Annex 1 from Ofcom, 2012. [Review of Alternative Dispute Resolution Schemes](#).

<sup>103</sup> Ofcom, 2023. [Call for Inputs: Review of ADR in the telecoms sector](#). ‘How easy is it for consumers to navigate the ADR schemes and are consumers receiving fair and consistent outcomes from both schemes?’ pp. 10 to 11.

<sup>104</sup> [VMO2 response to the 2023 CFI](#), p. 1; [CO response to the 2023 CFI](#), p.1.

our aim to assess consistency between both schemes, particularly when considering the financial remedies awarded and suggested that reasons for case acceptance should be made clearer to providers, including the rationale for any evidence they may be required to provide.<sup>105</sup>

- 4.14 [X] suggested we look at the consumer understanding of ADR and their opinions on the process.<sup>106</sup>
- 4.15 Which? said it is important for providers to have clear information available for consumers, so they can understand their right to take a complaint to a scheme and because the schemes' websites are a key source of information for consumers. It was noted that the evidence that consumers provide should be proportionate and schemes should set out the evidence requirements, process information and what is expected from the consumer, at the earliest stage possible. Schemes should also continue to make their services accessible through all stages of the ADR process and provide consumers with reasonable adjustments, where necessary. As part of their response, Which? identified and shared small differences in how both schemes present information online and thought this should be presented more consistently across the schemes to improve consumer understanding and confidence in ADR.<sup>107</sup>
- 4.16 CO agreed with the areas of focus that we set out in our 2023 CFI, which includes assessing the consumer experience of ADR against the approval criteria and considering whether Ofcom has sufficient oversight of both schemes by reviewing the current KPIs. CO stated consumers should experience fair and consistent outcomes regardless of who the ADR provider is, so it is important for both schemes to be aligned as much as possible. But it is important to note the differences between both schemes when comparing scheme data. In relation to KPIs, CO felt there is an opportunity to review the quality of service and consumer satisfaction, in addition to monitoring whether cases are completed within a set time.<sup>108</sup>
- 4.17 We have considered the above points through the case review.
- 4.18 Consumer Council for Northern Ireland believed there should be a focus on the experience of consumers from vulnerable groups and suggested regional representation when looking at consumer experiences.<sup>109</sup> Although regional representation was considered as part of the case review, it was not part of the case selection methodology due to the limited sample size.<sup>110</sup>
- 4.19 Comms Council UK suggested we should also explore experiences of businesses and providers, as there could be some dissatisfaction from providers with the schemes.<sup>111</sup> This review will focus on the consumer journey of ADR for those bringing a case to ADR and whether the schemes are meeting the approval criteria. We are also open to hearing the perspectives of businesses and providers.

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<sup>105</sup> [FCS response to the 2023 Call for input](#), p.1

<sup>106</sup> [X] response to 2023 CFI, p. 2.

<sup>107</sup> [Which? response to the 2023 CFI](#), p.2

<sup>108</sup> [CO response to the 2023 CFI](#), p.3

<sup>109</sup> [Consumer Council for Northern Ireland response to the 2023 CFI](#), p.1

<sup>110</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.3.

<sup>111</sup> Comms Council response to the 2023 CFI, p. 1.

- 4.20 Ombudsman Association suggested that the consistency of decision-making and the overall consumer experience could be improved by having a single scheme, which it described as good practice in other sectors.<sup>112</sup> Although we acknowledge the information sources cited in Ombudsman Association’s response, as part of this review, we are reviewing the schemes in light of the various matters we must have regard to under the Act, including the need to secure that the number of different sets of procedures is kept to a minimum. We consider that having two schemes is consistent with this provision. Additionally, as explained in paragraph 4.67 to 4.71, we have not identified major concerns with inconsistent decision-making that would warrant intervention in the form of reducing the number of approved schemes. However, we remain open to receiving industry perspective on this.
- 4.21 With regards to the transparency of the schemes, some stakeholders called for an improvement in the information the schemes share with their members. [S<] suggested we introduce a KPI on information sharing between the schemes and their members.<sup>113</sup> VMO2 commented that it would welcome routine visibility of regular reporting, provided to each provider, or disseminated via Ofcom.<sup>114</sup> We considered these comments in our analysis below.
- 4.22 Stakeholders also commented on the data that the schemes publish every quarter on their websites. Three called for greater transparency in the range and quality of the data that is published, so it can measure its performance against industry and use this insight to facilitate continuous improvement.<sup>115</sup> BT Group raised concerns about the accuracy of the data that is published, specifically in relation to the categorisation of complaint types.<sup>116</sup> Which? noted that the current data is published as a percentage rather than a raw number and suggested that the schemes could better contextualise this information by referring to the volume of cases alongside the relevant percentages.<sup>117</sup> We considered these comments in our analysis below.
- 4.23 In relation to Ofcom’s oversight of the schemes and holding them to account, most stakeholders agreed with our suggested focus on reviewing the KPIs. We outline in more detail the feedback we received from respondents about the KPIs in Section 5.

## Consumer experience of the ADR process

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### Ease of navigating the ADR process

- 4.24 Some consumers will be taking a case to ADR for the first time and may need an appropriate level of guidance and support, so it is important that schemes are easy to use at different stages of the process. In our 2023 CFI, we said we would look at whether there is sufficient guidance for consumers throughout the process and the responses we received for our 2023 CFI agreed with this approach. We would also look at whether both schemes are accessible and if vulnerable consumers are given appropriate support, including through

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<sup>112</sup> [Ombudsman Association response to the 2023 Call for input](#), p.2

<sup>113</sup> [S<] response to 2023 Call for input, p. 2.

<sup>114</sup> [VMO2 response to 2023 Call for input](#), p. 2.

<sup>115</sup> [Hutchison 3G UK Limited \(trading as Three\) response to 2023 Call for input](#), p.1.

<sup>116</sup> [BT Group response to 2023 Call for input](#), p. 2.

<sup>117</sup> [Which? response to 2023 Call for input](#), p. 6.

reasonable adjustments, where this is requested by a consumer. The clarity of decisions and how well they are explained by schemes through different methods of communication would be assessed, including provider compliance with obligations to both provide evidence for the case and implement remedies within an agreed timeframe. Through consumer research, we considered how satisfied consumers are with the quality of customer service provided by the schemes and whether there are any options to improve consumer experiences of navigating the ADR process, which was also an area highlighted by those who responded to our 2023 CFI.

- 4.25 In our view, the evidence shows that consumers are given sufficient guidance at different stages of the process with reasonable adjustments provided. The evidence shows that, overall, both schemes are performing well.<sup>118</sup> The case review demonstrates that 98% of CO cases and 97% of CISAS cases were sufficiently accessible and provided guidance to consumers, including vulnerable consumers who may require reasonable adjustments. Both schemes have reasonable adjustment policies in place, which are available on their websites.<sup>119</sup>
- 4.26 Consumers appear to be given guidance throughout the process, including information on how to submit a case and the associated timescales. The case review provided examples of where reasonable adjustments were put in place by the schemes and this included areas such as corresponding with consumers by alternative channels to the online portal (through email or post), allowing consumers additional time to respond, and including details of consumer needs through alerts on case files, to guide caseworkers on the most appropriate way to communicate with consumers.<sup>120</sup>
- 4.27 Consumer research findings indicated that many participants were satisfied with the ADR process overall, including the structure, method of communication and the impartiality of the schemes.<sup>121</sup> Responses from both schemes to our information requests support the wide range of guidance that is provided to consumers on support and reasonable adjustments, with these materials published on the schemes' websites.<sup>122</sup>
- 4.28 Both the consumer research and the case review highlight areas where small enhancements could be made, like improving the support given to consumers with vulnerabilities and providing more specific information to both consumers and providers about what kind of evidence is expected from them and why this is requested.

### **Most consumers can navigate the ADR process easily**

- 4.29 In our view, the findings show that consumers are given sufficient guidance on making a claim throughout the process, although some stages of the journey with CO would benefit from having more information available online to consumers.
- 4.30 Consumer research findings indicated that most participants thought schemes communicated the process clearly at the beginning of the journey and generally found the

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<sup>118</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.4.

<sup>119</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.15.

<sup>120</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, pp.15 to 16.

<sup>121</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, summary report, page 8.

<sup>122</sup> Ofcom analysis based on: CO response to information requested under section 135 of the Act (the statutory information request) dated 3 May 2024; and CISAS response to the statutory information request dated 3 May 2024.

experience of submitting a complaint to the schemes to be easy.<sup>123</sup> Some participants valued the initial phone contact from CO before using the portal.<sup>124</sup> Participants who went through the process with CISAS felt better informed about potential outcomes and compensation compared to CO.<sup>125</sup>

- 4.31 Our assessment of the responses we received from the schemes to our information requests<sup>126</sup> show that CO could have more information online that summarises the process for consumers and about the appeals process, although we note that CO research participants did receive a call, giving them the chance to learn about potential compensation and likely outcomes.<sup>127</sup>
- 4.32 Consumer research findings suggested that some participants struggled to find information on what level of compensation they should request, and some searched online to find advice on how much they could ask for, which led to some participants coming across what they felt were unrealistic amounts.<sup>128</sup> It is important to note that information about ADR services was most commonly searched for via websites that were not connected to the schemes.<sup>129</sup>
- 4.33 Most participants for both schemes reported a positive experience when using the online portals, apart from the issues raised further below with uploading evidence. A small number struggled with the digital experience and would have liked additional guidance on how to use the portal as part of the process. Some CO participants had issues with receiving notifications and reported logging into the portal and finding no new information available or no details of any actions they would need to take. Some CISAS participants felt they received too many notifications for every individual update, which they thought was unnecessary.<sup>130</sup>
- 4.34 Most participants found the process for accepting or rejecting a scheme's decision to be a straightforward process, especially for those who were happy with the remedy they were offered. A small number of participants found the timelines for accepting decisions confusing and mistook it for the timeframe to carry out the remedy (both are 28-day timeframes).<sup>131</sup>
- 4.35 Consumer research findings showed that some participants took early settlement and did not go through the whole consumer journey; this was mainly due to being happy with the offer, but some claimed they did this to avoid going through the whole ADR process, as there was a perception that this would require additional time and effort from participants.<sup>132</sup>

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<sup>123</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 27.

<sup>124</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 28.

<sup>125</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 27.

<sup>126</sup> Ofcom analysis based on: CO response to the statutory information request dated 3 May 2024; and CISAS response to the statutory information request dated 3 May 2024.

<sup>127</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 28.

<sup>128</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 34.

<sup>129</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 11.

<sup>130</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 38.

<sup>131</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 44.

<sup>132</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 36.

- 4.36 Some participants felt unsure of their next steps if they felt the decision was not correct, although those who could and wanted to appeal the decision with CO did take this option. Participants who were with CISAS did not have this option but most felt the outcome of the ADR process was final and they had no other ways to seek compensation.<sup>133</sup> Those who chose to appeal the decision with CO found the process easy to follow but felt this would only be useful if it led to the decision being in their favour.<sup>134</sup> We would expect further information to be available to consumers on compensation amounts they can request, the appeals process and general information on the ADR process.

### **A small number of consumers found it burdensome to provide evidence when submitting a claim**

- 4.37 Findings from the consumer research indicated that most participants were able to provide evidence online relatively easily and generally reported having an easy experience when submitting their complaint to schemes.<sup>135</sup> Participants who used the portal with CISAS and were comfortable with navigating the process online, found it to be mostly intuitive.<sup>136</sup> However, a small number of participants felt the process of uploading evidence could be time consuming and burdensome because of interface issues with online systems and the amount of evidence they were required to provide, which could sometimes require them to go back over a long period. Some participants thought that providers could be supplying more upfront evidence from any existing records they keep.<sup>137</sup>
- 4.38 The case review noted some minor concerns about the burden of evidence upon the consumer and noted the importance of schemes being transparent to consumers from the beginning about what evidence is required and how this is considered as part of their case.<sup>138</sup>
- 4.39 Although providers are requested to supply any relevant evidence in a similar manner to consumers, it is important for schemes to ensure the consumer still has a chance to check and add to any evidence supplied by providers. Findings from the case review indicate there is scope for both schemes to better manage consumer expectations about what information is required from them as evidence.<sup>139</sup>
- 4.40 It is important to emphasise that we expect providers to comply with requests from schemes. GC C4.3(b) requires providers to comply with the schemes (as defined in the General Conditions).<sup>140</sup> This means that providers should follow the schemes' procedures or rules, including any reasonable request by the schemes to give them information. We expect providers to provide appropriate evidence that is relevant to the assessment of the case, as requested throughout the process. We would expect schemes to consider how to

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<sup>133</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 45.

<sup>134</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 46.

<sup>135</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 27.

<sup>136</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 4.

<sup>137</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 29.

<sup>138</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, pp.23 to 24.

<sup>139</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.24.

<sup>140</sup> General Condition C4.3(b) states that regulated providers must comply with the ADR Scheme, including abiding by any final decision of the body which administers the ADR Scheme, within the time period specified in that final decision.

ensure consumers are not discouraged from submitting a claim, because of the burden of providing evidence.

### **The majority of decision letters are well-written**

- 4.41 The results from the case review show that both schemes wrote decision letters consistently well, with 88% of CO cases and 95% of CISAS cases considered to be sufficiently clear. However, the way a small number of CO's decisions are written could be improved when it comes to both clarity and drafting.<sup>141</sup>
- 4.42 There appears to be a difference in style between both schemes; CISAS take a formal approach to drafting and often refer to legislation and rules in their decision letters, but these were found to be explained well. CO adopt a more informal approach to decision drafting and, although most decisions were clear, there were some cases where the case review indicated some or significant concerns with drafting.<sup>142</sup> It is important to note that although the case review found 12% of CO cases had less precise drafting, the decision and reasoning could still be understood.
- 4.43 Consumer research findings indicated the importance of communicating decisions clearly; participants wanted both schemes to avoid using confusing language and preferred having detailed decision letters. Some participants felt frustrated if schemes did not respond to all aspects of evidence and the various points they submitted throughout their case.<sup>143</sup> For those who had already experienced the ADR process and were completing the journey for CO, it was felt the clarity of decision letters could be dependent on which individual caseworker they were assigned and could make the outcomes feel inconsistent.<sup>144</sup>
- 4.44 Although the research findings indicated that decisions are generally explained well, there appear to be minor areas for improvement for both schemes. Where the case review has indicated isolated issues with a small number of cases, we have discussed this with schemes, and they have taken corrective action. We would expect to see improvements in the review processes used by schemes for decision-making.

### **Most providers are complying effectively with their obligations to implement remedies, but some consumers feel they could do this more quickly**

- 4.45 We explain above in paragraph 4.40 that under the GCs providers are required to comply with the schemes, and this includes compliance with the schemes' decisions and implementing remedies within the agreed timeframe.<sup>145</sup> Both schemes also include the requirement for providers to comply with agreed remedies in their Schemes Rules (CISAS)<sup>146</sup> and Terms of Reference (CO), as a condition of membership.<sup>147</sup>

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<sup>141</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, pp.26 to p.27.

<sup>142</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.27.

<sup>143</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 42.

<sup>144</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 59.

<sup>145</sup> GC C4.3 – 'Regulated Providers must: (b) comply with the ADR Scheme, including abiding by any final decision of the body which administers the ADR Scheme, within the time period specified in that final decision.'

<sup>146</sup> CISAS, 2024. [Communications & Internet Services Adjudication Scheme \(CISAS\) Scheme Rules](#), 4.3.3 and 4.3.4.

<sup>147</sup> CO. [Terms of reference – Communications sector](#), 10.13.

- 4.46 The responses we received from both schemes to our information requests included details of remedy compliance and this indicated that most providers carried out remedies within the agreed timeframe, with CISAS reporting there were no instances where providers did not implement any financial award at all.<sup>148</sup> The majority of remedies were actioned within 28 days and very few cases remained open where remedies were not yet implemented.
- 4.47 Findings from the consumer research show that participants consider the ADR process to be unfinished until the agreed remedies are implemented and in a small number of instances where timelines are exceeded, the ADR process can feel ineffective. Some participants expressed dissatisfaction with the existing timeframe of 28 days for providers to implement remedies and some were not sure whether schemes had any power to compel providers to carry out outstanding remedies that had not been completed within the agreed timeframe. Where this was felt, participants lost trust in the ADR process.<sup>149</sup>
- 4.48 Providers are expected to comply with all our GCs, including the requirements in GC C4.3(b) which states that Regulated Providers must comply with the ADR Scheme, including abiding by any final decision of the body which administers the ADR Scheme, within the time specified in that final decision. Although the current level of non-compliance from providers to such decisions appears to be low, if there were concerns about such compliance, we may consider taking appropriate action, in accordance with our enforcement guidelines.<sup>150</sup>
- 4.49 Our meetings with both schemes found that there are already prompts in place where they can remind providers through their online portals that they are close to exceeding the timeframe and an update must be provided as soon as possible. The schemes confirmed they already work with providers through prompts, to follow up when timeframes have elapsed. We would want to see better information sharing from schemes on non-compliance from providers, regarding remedy implementation.

## Fair and consistent outcomes

- 4.50 We are aware that there are some differences between each of the schemes' procedures when considering disputes. For example, CO provides an option for consumers and providers to make an appeal against the scheme's decision if they consider that the decision is factually incorrect, or they have been given new evidence. In contrast, CISAS' adjudications are final and not subject to appeal. We explain the difference in drafting styles between both schemes in paragraph 4.42. Findings from the case review demonstrated that both schemes also have a difference in communication preference with CISAS conducting most of their contact online and through their portal, whereas CO rely on telephone contact to supplement communication through the portal.<sup>151</sup>
- 4.51 While we recognise that schemes can operate differently and many of the schemes' processes are commercial decisions, we would have concerns if these differences were having a detrimental impact on outcomes for consumers.

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<sup>148</sup> Ofcom analysis based on: CO response to the statutory information request dated 3 May 2024; and CISAS response to the statutory information request dated 3 May 2024.

<sup>149</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 48.

<sup>150</sup> Ofcom, 2022. [Regulatory Enforcement Guidelines for investigations.](#)

<sup>151</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.34.

4.52 The case review also considered whether case outcomes are broadly consistent, if decision-making processes are fair (both within and between the schemes), and whether differences in the schemes' processes are having a detrimental impact on outcomes for consumers. This was examined based on award amounts, the types of cases accepted by both schemes and whether the decisions reached were fair and reasonable.

### **We found case outcomes are broadly consistent and decision-making processes are fair**

- 4.53 Results of the case review show that 86% of CO cases and 91% of CISAS cases were found to be fair and reasonable. In our view, this indicates that the decisions and remedies reached by both schemes are broadly consistent.<sup>152</sup> Cases where a decision had been made were considered as part of this particular sample, and excluded any cases where early settlement was taken or cases which were deemed to be out of scope for both schemes.<sup>153</sup>
- 4.54 The case review did highlight some minor concerns regarding how CO awarded specific elements of financial compensation in 8% of cases, suggesting that some of these amounts were lower than expected.
- 4.55 These awards are designed to go beyond the usual remedies or financial compensation; in this case, to address the time and trouble that a consumer has experienced due to the issues at hand. These awards are referred to as distress and inconvenience for the purposes of our case review.
- 4.56 Table 7 in the case review report illustrates the distribution of distress and inconvenience awards between both schemes with the average award made by CO in this area £107 and CISAS averaging £183.<sup>154</sup>
- 4.57 The case review did identify some cases where CO appeared to be using inconsistent descriptions about how and why such awards were made.<sup>155</sup> This could be due to issues with consistency in relation to how CO interpret their own internal procedures and guidance and could be a contributing factor for why there is a difference in these award amounts between both schemes.<sup>156</sup> We have discussed this issue with CO through internal meetings. We have also considered how existing guidelines on decision-making and compensation could be updated to improve this area. We explain how we will do this in paragraph 4.94 to 4.99.
- 4.58 Although schemes have the discretion to decide the appropriate remedies and level of compensation, we would expect them to acknowledge specific features of a case and address them proportionately. It is worth noting that the case review deliberately consisted of complex cases and the limitation of the sample size is described in the methodology for this area.<sup>157</sup> While considering these concerns, it is important to note that the perception of

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<sup>152</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.24.

<sup>153</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.19.

<sup>154</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.22.

<sup>155</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.23.

<sup>156</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.23.

<sup>157</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.10.

these financial awards being low is a matter of opinion and reflects the range of cases that schemes deal with, and the individual circumstances of each case.<sup>158</sup>

- 4.59 Our findings suggest that the absence of an appeals stage did not produce negative outcomes for consumers who were with CISAS (who do not have an appeals stage). This is because out of the 10 CO cases which had an appeal stage and were considered by the case review, the presence of an appeals process changed the outcome of only one case. In all other appeal cases, the outcome remained unchanged, although we note this is a relatively small sample.<sup>159</sup> As CO do offer an appeal, we consider that it is important for CO to ensure references to their appeal stage are described consistently across their caseworkers and consumers are given sufficient information about the appeal process.
- 4.60 It is important that the tone and written language used by CO when communicating the availability of an appeals stage should not deter consumers from considering this stage of the ADR journey. There were some cases identified in the case review where consumers could be deterred from the appeals process. This could contribute to a negative experience of ADR and make consumers question the fairness of the process.<sup>160</sup> However, it is worth noting that in cases involving an appeals stage, CO considered the appeal, even if further evidence had not been provided.<sup>161</sup>

### **The schemes accepted cases and followed processes in line with published procedures**

- 4.61 As part of the case review, we wanted to assess whether appropriate cases were being accepted by both schemes and, where cases fell outside their jurisdiction, consumers were provided with the relevant information or signposted to the appropriate organisation. The case review also considered whether these accepted cases were treated in accordance with the schemes' published procedures and rules, which are available on their websites.<sup>162</sup>
- 4.62 The case review results indicate that both schemes appear to perform fairly well in this area and there are no issues with schemes not following their own published procedures.<sup>163</sup> Lucerna specifically considered case acceptance and jurisdiction in 20 cases for each scheme and found both schemes mostly accepted cases in line with their published procedures<sup>164</sup> with only one case from each scheme found to be a cause of concern, when it came to jurisdiction.<sup>165</sup>
- 4.63 It is worth noting that both schemes exclude cases that fall outside their jurisdiction and fall within the jurisdiction of another, and we acknowledge that this can sometimes be difficult to identify. It is important that the schemes ensure they make it clear to consumers when their case cannot be considered, or when they require signposting to other organisations or

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<sup>158</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.21.

<sup>159</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.29.

<sup>160</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.30.

<sup>161</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.30.

<sup>162</sup> CISAS, 2024. [Communications & Internet Services Adjudication Scheme \(CISAS\) Scheme Rules](#). CO. [Terms of reference – Communications sector](#).

<sup>163</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.25.

<sup>164</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.17.

<sup>165</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.18.

between both schemes. Such cases should be considered appropriately or referred correctly to other organisations.

- 4.64 When it came to following processes, results from the case review suggest that CO could improve how they present the opportunity to appeal to customers when referring to this in their decision letters to consumers, as there were some instances where the eligibility for the appeals process was described in different ways across some cases. As consumers have been told of an appeals stage, it is important for caseworkers to refer to this correctly using internal guidance or the relevant guidance online, as there may be a risk that poor drafting that references the appeals process could make consumers question the fairness of the overall ADR process.

### **Schemes generally respond to cases in a timely way and mostly within agreed timeframes**

- 4.65 Both schemes have published information on their websites which estimates that most cases are resolved within six weeks (though this can be longer if a case is at an appeal stage).<sup>166</sup> The results of the case review indicate that both schemes performed well in this area and most cases were resolved within the published timeframe.
- 4.66 On average, results indicate that CISAS took 10 days longer to issue a decision compared to CO. In our view, this demonstrates that the schemes are often handling complex cases and we do not think this additional time is a cause for concern as the majority of cases are being resolved within 6 weeks. It is important to acknowledge that the sample size considered by the case review was small and the cases that were selected as part of the sample are likely to be different to the composition of cases both schemes report to us under the KPIs, which expects 90% of cases to be completed in 6 weeks.<sup>167</sup>

### **To the extent there are differences between the schemes, these do not appear to have a material impact on outcomes for consumers**

- 4.67 As part of our assessment into whether there is consistency between the schemes, and taking into account the responses we received for our 2023 CFI, the case review considered whether the decisions and remedies reached by both schemes were mostly consistent and whether the differences between the schemes are resulting in detrimental outcomes for consumers. The case review indicates that there were no significant inconsistencies in the remedies awarded or the compensation given.<sup>168</sup>
- 4.68 There are differences in the average distress and inconvenience award between both schemes and the small number of cases where concerns were highlighted with CO cases. We consider these points in paragraph 4.54 to 4.58.
- 4.69 We acknowledge that a key difference between the schemes has always been the option for consumers to appeal CO decisions and part of the case review assessed whether the appeal stage changed outcomes for consumers. Findings from the case review show that out of ten cases, there was only one case where the appeal stage changed the outcome for the consumer.<sup>169</sup> In all other appeals cases, the outcome remained unchanged, although we

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<sup>166</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.31.

<sup>167</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.31.

<sup>168</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report p.24.

<sup>169</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.29.

acknowledge the limitations of the sample size for cases which included an appeals stage. Despite this, we believe the case review results indicate that the availability of an appeals process for only one scheme is not a detriment to consumers.

- 4.70 Although the difference in methods of communication between the schemes did not result in detrimental outcomes for the consumer,<sup>170</sup> a small number of research participants felt that having all communications delivered through the portal by CISAS negatively impacted their overall experience of ADR.<sup>171</sup> However, consumers can request a specific form of communication through reasonable adjustments and both schemes have comprehensive guidance available online on how to request this, which should mitigate this.<sup>172</sup>
- 4.71 In our view, it is acceptable for schemes to operate slightly differently from each other, and the research findings appear to indicate that these differences are not resulting in detrimental outcomes for consumers.

## Transparency and oversight of the cases schemes handle

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### Transparency of the schemes processes and case decisions

- 4.72 The schemes collect data from consumers that seek access to ADR, such as the name of the provider and cause of the complaint, which is used by the schemes to help resolve disputes. This information can also offer insights on complaint trends across the industry, helping inform both Ofcom's oversight of providers and customers' choice of provider.
- 4.73 The schemes publish quarterly data on complaints trends, including on case outcomes and complaint types by provider and service type on their respective websites.<sup>173</sup>
- 4.74 The schemes also provide Ofcom with more detailed monthly datasets on complaints trends broken down by provider, which include information on some additional areas, such as rates of signposting to ADR by providers. We engage with the schemes on a regular basis to discuss the monthly datasets which helps further our understanding of complaints trends across the sector and helps us to identify potential compliance concerns.

### We found that the current arrangements give us timely insights into complaint trends

- 4.75 Following our review of the range and quality of data provided to Ofcom and the data that is published, we found that receiving the data informally every month from the schemes ensures we have access to a wide range of data and information in a timely way. Our regular engagement with the schemes helps to further our understanding of the complaints landscape across the sector and identify potential compliance concerns. The complaints data that the schemes publish on their websites every quarter can provide useful insights for consumers, for example, how often consumers achieve a positive resolution to their complaint when escalating their case to ADR.

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<sup>170</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p.29.

<sup>171</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 56.

<sup>172</sup> CISAS. [Help & Guides](#) [accessed 8 January 2025]. CO. [Accessibility](#) [accessed 8 January 2025].

<sup>173</sup> CISAS. [Reports](#) [accessed 8 January 2025]. CO. [Complaints Data](#) [accessed 8 January 2025].

- 4.76 We considered alternative arrangements for accessing the data the schemes share with us informally. For example, collecting the data through our formal information gathering powers. However, we did not think this would be as effective as it would reduce the timeliness of the data which could undermine our ability to identify problems or compliance concerns as they arise.
- 4.77 Although it is our view that the schemes are sufficiently transparent with the data that they publish and share with Ofcom, we have identified a few areas where minor improvements could be made, and we have set these out below.

### **The schemes could improve the comparability and consistency of the data they publish and share with Ofcom**

- 4.78 An overview of the complaints landscape across the sector helps with Ofcom's oversight of providers. It can sometimes be difficult to get an industry-wide perspective because the schemes present the monthly complaints data in different ways, which means it is not always easily comparable. For example, the data covers different time periods or is presented as a percentage by one scheme and a raw number by the other scheme.
- 4.79 There are also some inconsistencies with categorisation of the complaints data that the schemes publish on their websites. For example, CISAS categorises complaints around the consumer's perception of their complaint, while CO's complaints are categorised by the caseworker after they have reviewed the case.
- 4.80 We will work with the schemes to ensure the data is more consistent and comparable.

### **The schemes could make the data they publish more insightful for consumers**

- 4.81 The data the schemes publish every quarter provides useful information that could help customers make informed choices when selecting a provider, but the accessibility of the data could be improved.
- 4.82 The schemes currently publish case outcome and case category data as a percentage rather than a raw number, which provides some insight into the type of complaints made about specific providers (e.g. customer service or billing) but does not give an indication of complaint volumes. In its response to our 2023 CFI, Which? suggested that the schemes could better contextualise this data by referring to the volume of cases alongside the relevant percentages.<sup>174</sup> CO and CISAS have raised concerns about publishing raw numbers because they could be misleading for consumers.<sup>175</sup> For example, a provider with a larger market share is likely to have more complaints reach ADR than a smaller provider.
- 4.83 A potential alternative to publishing the quarterly data as a raw number is for the schemes to publish changes in complaint volumes every quarter. For example, publishing the percentage by which complaints increased or decreased against each provider since the previous quarter. This would give consumers further insight into how specific providers are performing. It could also give providers insights into how they are performing against their competitors, which could incentivise providers to improve their complaints handling processes.

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<sup>174</sup> [Which? response to 2023 CFI](#), p. 6.

<sup>175</sup> Ofcom/CISAS meeting notes, 13 August 2024; Ofcom/CO meeting notes, 13 August 2024.

- 4.84 Another issue related to the accessibility of the ADR data that is published is consumer awareness. As outlined in Section 3, research suggests that consumer awareness of ADR is low – which indicates that consumer awareness of the complaints data published by the schemes is also low.
- 4.85 We will discuss with the schemes some options for making the data they publish more insightful for consumers. We will also consider ways in which we can raise awareness of the data that the schemes publish.

### Information sharing between the schemes and their members

- 4.86 In response to our 2023 CFI, a few providers called for an improvement in the information the schemes share with their members.
- 4.87 It is Ofcom’s understanding that both CO and CISAS regularly share data and information with their members via their case management systems, insight reports and at meetings between the schemes and providers.
- 4.88 We expect the schemes to continue to work with their members to ensure providers have access to the data and information they need and encourage providers to engage with the schemes about any specific data requirements they may have.
- 4.89 In light of the above, we do not see a case for Ofcom to get involved in the information sharing arrangements between the schemes and providers.

### Accountability

- 4.90 We hold the schemes to account as part of our regular engagement with them. For example, every quarter we review the complaints that Ofcom’s Customer Complaints Team (CCT) receives about CO and CISAS and discuss these with the schemes at our meetings with them. This approach allows us to address any concerns we have with the schemes as they arise which means issues are resolved quickly. Where we have previously identified a problem or an area for improvement, both schemes have acted quickly to address our concerns or make improvements.
- 4.91 Additionally, both schemes have internal complaints processes to handle complaints about the service they provide.<sup>176</sup> If the scheme is unable to respond to a service complaint to the consumer’s satisfaction, the consumer may be able to escalate their complaint to an independent assessor.<sup>177</sup> The independent assessor will consider how the consumer’s case has been handled by the scheme and, where appropriate, they can make recommendations for changes to be made or require an apology and/or compensation to be paid by the scheme.
- 4.92 The independent assessor publishes an annual report on their work which usually includes a review of the schemes’ processes, general observations on the nature of complaints and recommendations for how the service can be improved. Both schemes publish these

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<sup>176</sup> CO. [Unhappy with our service](#) [accessed 9 January 2025]. CISAS. CEDR. [Complaints Procedure](#) [accessed 9 January 2025].

<sup>177</sup> Please note: CO refer to this role as the independent assessor whereas CISAS refer to this as the independent reviewer. For the purposes of this review, we will refer to this role as the independent assessor.

reports on their respective websites.<sup>178</sup> As part of our ongoing monitoring of both schemes, we take this information into account.

- 4.93 We hold the schemes to account by measuring their performance against a set of KPIs. These KPIs help Ofcom to monitor how responsive the schemes are in their communications with consumers and to ensure that the schemes are responding to cases as quickly as possible. We discuss the current KPIs and our assessment of them in detail in Section 5, but it is worth noting here that the schemes usually meet and exceed the KPIs.

## Decision-making principles

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- 4.94 Following the 2012 ADR Review, both schemes were re-approved with the introduction of principle-based guidelines to decision-making, as a condition of re-approval.<sup>179</sup>
- 4.95 Both schemes adopted these guidelines and consider them as part of their approach to making certain types of decisions and compensation payments.
- 4.96 These guidelines are designed to help define some common objectives which schemes can use to aid decision-making, and to set out a common approach to awarding compensation. These guidelines exist to aid decision-making and are not in place to replace the schemes' existing rules or prescribe how specific cases should be dealt with.
- 4.97 The guidelines consist of eleven guiding principles,<sup>180</sup> nine points on decision guidelines and five guidance points relating to compensation.
- 4.98 The schemes are expected to continue applying these guidelines as part of their decision-making process, but as part of this review, we propose to update these guidelines with the following changes:
- Remove the following two points from the eleven guiding principles – measured performance and official approval. We believe these are covered by the remaining principles, which mirror the approval criteria under the Act.
  - Minor changes to the wording in point six and point seven of the decision guidelines.
  - Replacing the five guidance points relating to compensation in A1.5 with wording to remind the schemes that they must have the appropriate policies in place regarding compensation levels, and the schemes must apply these policies consistently.
- 4.99 We propose to update the decision-making guidelines with the above changes, which are available in Annex 6.

## Assessment of the re-approval of the schemes

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- 4.100 We propose to approve both schemes without conditions of re-approval, and with the revised decision-making principles discussed above. We will work with the schemes to implement the improvements identified through our assessment. This is appropriate for smaller changes, as we believe the schemes are meeting the approval criteria, which we

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You can find CO's independent assessor reports [here](#) and CISAS' independent reviewer reports [here](#).

<sup>179</sup> Ofcom, 2012. [Review of Alternative Dispute Resolution Schemes: Statement](#).

<sup>180</sup> Ofcom, 2012. [Review of Alternative Dispute Resolution Schemes: Statement](#).

have assessed in detail as part of this section. This would be a proportionate response to addressing the minor issues we have identified from the research findings, and an efficient way of making changes to improve the existing journey and to address small differences in consistency between the schemes.

4.101 We address each of the criteria below, in turn, and set out our provisional assessment.

## Accessibility

4.102 In our view, the schemes meet the accessibility requirements as they both maintain up-to-date websites with information regarding the ADR process. Both schemes have reasonable adjustment policies in place, which are available online and both schemes can provide information on the ADR process in an alternative format, if this is requested.

4.103 Although most of the process is completed through an online portal, schemes retain a range of different services to consumers to assist them with submitting a complaint.

4.104 In addition, the schemes offer a range of different communication channels to consumers to help them log a complaint. This includes through telephone, email and letter. The use of the online portals allows consumers to monitor the progress of their case, view evidence uploaded by the provider, and submit additional information via the portal.

4.105 An analysis of Ofcom's complaints data for 2023-24 indicates that complaints regarding both schemes remain low and did not identify any systemic issues in relation to the accessibility of their services.

4.106 Both schemes have an independent assessor in place who can consider complaints about the case handling process, including where a complainant believes the scheme has not met the requirements of its own policies or did not provide an accessible service that appropriately met the needs of a consumer.

4.107 To make it easier for consumers to navigate the ADR process:

- Schemes will undertake minor changes to include more information or guidance online regarding the ADR process for consumers, such as summarising the overall ADR process and providing more information on specific stages such as appeals, where relevant.
- Schemes will use a review process to monitor the quality of decision letters, to ensure they remain at a high standard, and report on this through our regular monthly reporting and annual reports. Both schemes will have the option to use existing quality reviews undertaken by internal teams or through an alternative method.

4.108 Our assessment is that both schemes meet the criterion for accessibility as set out in the Act.

## Independence

4.109 The Act requires that the schemes are administered by those who are independent of both Ofcom and providers. Both schemes have robust processes and policies in place to ensure their members do not unduly influence decision-making, measures to ensure ADR officials discharge their duties in a way that is not biased towards either party to the dispute and

rules to ensure any conflict of interest is disclosed and addressed.<sup>181</sup> It is our view that the schemes' published policies and the case review findings demonstrate that schemes follow their published procedures, and this provides the necessary assurances of their independence.

- 4.110 Our assessment is that both schemes continue to meet the criterion for independence as set out in the Act.

### **Fairness**

- 4.111 We describe the findings of the case review in detail above in relation to fair outcomes. We believe both schemes are, on the whole, delivering reasonable outcomes and the decision-making processes in place are fair and there are no systemic issues with how schemes are conducting their decision-making.
- 4.112 Through the role of the independent assessor, there is an opportunity for schemes to rectify any process flaws, including making recommendations in their annual reports for schemes to explore any decisions where fairness could be challenged.
- 4.113 Our assessment is that both schemes continue to meet the criterion for fairness as set out in the Act.

### **Efficiency**

- 4.114 The KPIs we set for the schemes help us to monitor if the schemes are operating efficiently. For example, we are able to monitor the length of time it takes the schemes to resolve cases and how long it takes them to respond to correspondence.
- 4.115 We will assess the existing KPIs in greater detail in Section 5 – and if they are incentivising the best outcomes for consumers – but both schemes have met and exceeded the current KPIs for at least the last two years. It should be noted that during this period CO has experienced higher case volumes than in previous years, as well as spikes in complaints levels, but has still managed to meet and exceed the KPIs. We believe both schemes have sufficient processes in place to deal with high case volumes (for example, the ability to bring in extra staff) in the future, should they arise.
- 4.116 In light of the above, our assessment is that both schemes meet the requirements of the efficiency criterion.

### **Transparency**

- 4.117 We reviewed the range and quality of data provided to Ofcom and the data that is published to see if the schemes are sufficiently transparent in relation to the data they publish and share with Ofcom.
- 4.118 The data the schemes collect and publish can provide useful insights on complaint trends across the industry, which helps inform Ofcom's oversight of providers and could help consumers decide which provider they wish to purchase a particular service from. However, because the schemes share and publish information in slightly different ways, the data is not always consistent or comparable.

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<sup>181</sup> Some information used to assess the schemes' independence was provided by CO and CISAS in February 2024 as part of the re-approval of the schemes under the ADR regulations.

- 4.119 In order to improve the comparability and consistency of the data, we will work with the schemes to:
- further standardise the monthly datasets they provide to Ofcom; and
  - address the inconsistencies in the way complaints are categorised in the quarterly data they publish on their websites.
- 4.120 We also think some minor improvements can be made to the data that the schemes publish on their websites to ensure it is as informative as possible for consumers. We will work with the schemes to make the data they publish more insightful which may include changing the way the data is presented on their websites or asking them to publish additional data. As part of this, we will consider ways Ofcom can raise consumer awareness of the ADR data.
- 4.121 It is our view that both schemes are adequately transparent in relation to the data they publish and share with Ofcom and therefore continue to meet the transparency criteria.

### Effectiveness

- 4.122 The case review findings described above indicate that both schemes are accepting cases in line with their procedures.
- 4.123 Both schemes have processes in place using case management systems, to ensure providers are required to update the schemes on how they are complying with the decisions made by the schemes. Both schemes also address non-compliance in their Scheme Rules or Terms of Reference, and how this can lead to suspension or termination of a provider's membership and, where appropriate, non-compliance can be escalated to Ofcom.
- 4.124 Our assessment of complaints data did not identify any issues where specific providers were regularly failing to comply with decisions made by schemes.
- 4.125 In our view the structures and processes in place by schemes ensure that decisions are made appropriately, and providers are given reminders about compliance and carrying out agreed remedies.
- 4.126 To support consumers with the need to provide any relevant evidence, we propose that both schemes should carry out the following actions promptly:
- Schemes will review their Scheme Rules/Terms of Reference and strengthen the language to remind providers of their obligations under General Condition C4.3b.<sup>182</sup>
  - Both schemes will continue to work informally with providers to remind them of the need to supply evidence within the timeframe and will give them guidance on what evidence should be submitted.
  - Schemes will work on building consumer awareness on the types of evidence needed and why it is requested.
- 4.127 To remind providers of their obligations to comply with the terms of their membership, we will work with schemes to carry out the following actions promptly:

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<sup>182</sup> GC C4.3 – 'Regulated Providers must: (b) comply with the ADR Scheme, including abiding by any final decision of the body which administers the ADR Scheme, within the time period specified in that final decision.'

- We will work with schemes to improve remedy compliance by providers. This will include asking schemes to issue regular reminders to providers of their obligations.
- We will introduce more informal reporting on non-compliance from providers in carrying out remedies, so schemes can raise this with us when it becomes an issue.
- Both schemes will be asked to review their Scheme Rules/Terms of Reference to emphasise the obligation on providers to implement remedies within the agreed timeframe.

4.128 Our assessment is that both schemes meet the criterion for effectiveness as set out in the Act. We will work with the schemes informally to improve the collection of evidence and provider compliance with their Scheme Rules/Terms of Reference.

### Accountability

4.129 We note both schemes regularly report their performance against the KPIs, and that this information is published on our website every quarter. Both schemes have met and exceeded the KPIs for at least the last two years. However, the Act provides Ofcom with the right to launch a review of either scheme should it have concerns regarding either scheme's performance, and we have a process in place to deal with any instances where a scheme misses a KPI for two successive quarters. We set out in Section 5 our assessment of the current KPIs, but it should be noted that we still consider KPIs a useful mechanism for holding the schemes to account.

4.130 We also review and discuss with both schemes any complaints our CCT receives about them, which helps us to identify and resolve any potential issues or problems with the schemes in a timely manner.

4.131 Additionally, both schemes have an internal complaints procedure that includes the role of an independent assessor. The independent assessor will review service complaints that the schemes are unable to resolve to the consumer's satisfaction. The independent assessor publishes a yearly report on the findings from their work.

4.132 Our assessment is that both schemes meet the criterion for accountability as set out in the Act.

### Non-discriminatory

4.133 The findings of the case review demonstrated that the differences between both schemes did not result in any concerning, different outcomes for consumers. The case review identified a small number of cases where financial awards made by CO tend to be lower than what is awarded by CISAS, which was also a finding from previous reviews. Our proposed actions to mitigate this are mentioned in paragraph 4.137.

4.134 Our assessment is that both schemes meet the criterion to be non-discriminatory as set out in the Act.

### Consistency

4.135 We describe the differences between the schemes above, including the presence of an appeals stage for CO consumers only and the differences in communication styles. Despite this, the case review found that these differences do not amount to a material detriment for consumers, and both schemes were delivering the right outcomes in most cases.

- 4.136 Findings of the case review further demonstrated that the decisions reached, and remedies provided, were broadly consistent both within and between schemes.
- 4.137 Where there were minor inconsistencies in specific areas, we propose the following:
- Consistency between schemes: We propose to update the Decision Guidelines introduced as part of the 2012 ADR Review with minor changes to ensure compensation guidance and principles are accurately reflecting how the schemes operate, and to emphasise the need for schemes to follow their published procedures when awarding compensation. We expect the schemes to continue using these as part of their decision-making process.
  - Consistency within the schemes (CO): We will work with CO to ensure consistent application of their internal policies in relation to awarding compensation for distress and inconvenience. This includes improving how caseworkers describe the way in which this is calculated and awarded.
- 4.138 Our assessment is that both schemes meet the requirement of being adequately consistent in terms of outcomes reached, as set out in the Act.

## Consultation questions

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**Question 5:** Do you agree with our provisional assessment and proposal to re-approve both schemes based on the approval criteria set out in the Act? Please provide your reasoning.

**Question 6:** Do you agree with our proposed changes to the decision-making principles? Please provide your reasoning.

# 5. Setting effective KPIs

## Purpose of this section

In this section, we review the Key Performance Indicators ('KPIs') we set for the schemes to see if they are still focused on the right areas and set at appropriate levels to incentivise the best outcomes for consumers. We consider the findings from our consumer research, the ways in which the schemes engage with consumers and each scheme's performance against the existing KPIs. We also consider ways in which we could improve our oversight of consumer satisfaction with the ADR process.

## In summary

- It is our assessment that, while the KPIs are broadly focused on the right areas, some KPIs are not set at the right level and should be adjusted to more accurately reflect the schemes' performance in key areas, encourage the schemes to improve their performance (where possible) and enhance our oversight of the schemes.
- We also consider that our oversight of consumer satisfaction with the ADR schemes could be improved by the schemes publishing customer satisfaction data.

## Background

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- 5.1 We monitor the schemes' performance primarily through a set of Key Performance Indicators ('KPIs') we set for the schemes, which we publish on our website on a quarterly basis.<sup>183</sup> These KPIs help Ofcom to monitor how responsive the schemes are in their communications with consumers and to ensure that the schemes are resolving cases as quickly as possible, incentivising fair outcomes for consumers. These KPIs also provide assurances to consumers that their complaints will be dealt with in a timely manner, which can help build consumer confidence in the ADR process.
- 5.1 The KPIs were first introduced as a recommendation for best practice in the 2005 ADR Review to increase transparency and help Ofcom to monitor the schemes' performance in key areas.<sup>184</sup> As set out in Section 4, transparency is one of the criteria we must consider when approving the schemes under 54(2)(b) of the Act.
- 5.2 The current KPIs<sup>185</sup> are:
- more than 80% of calls to be answered in less than two minutes;
  - more than 90% of calls to be answered in less than five minutes;
  - 100% of written correspondence to be replied to within ten days;
  - more than 90% of case decisions to be issued within six weeks of the case being accepted; and

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<sup>183</sup> Ofcom, 2024. [ADR schemes' performance](#).

<sup>184</sup> Ofcom, 2005. [Ofcom Review of Alternative Dispute Resolution Schemes](#) – report and draft recommendations, p. 36.

<sup>185</sup> The KPIs which we set for CISAS and CO can be found on our [website](#).

- less than 1% of case decisions to be issued later than eight weeks after the case has been accepted.<sup>186</sup>
- 5.3 Both schemes have consistently met and exceeded the KPIs over the past two years. However, we do have an established process in place to deal with instances where a scheme fails to meet a KPI.<sup>187</sup>
- 5.4 As the KPIs are critical to Ofcom’s oversight of the schemes, we decided to review the KPIs, which have not changed substantially since they were introduced, to see if they are still focused on the right areas and set at appropriate levels.

## Stakeholder responses to our 2023 CFI

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- 5.5 Most stakeholders agreed with our plans to review the KPIs as set out in the 2023 CFI. CO suggested this could be an opportunity to review the quality of service and customer satisfaction in addition to whether cases are completed in a certain amount of time.<sup>188</sup> Which? also called for a focus on quality of service and consumer satisfaction, arguing that Ofcom should require ADR providers to publish annual independent surveys of consumer trust and satisfaction to monitor their effectiveness in meeting consumers’ needs, including collecting data about the age, income and other relevant characteristics of users.<sup>189</sup> Three encouraged Ofcom to consider how we monitor scheme performance beyond the existing KPIs to ensure consistency of approach and decision-making for both consumers and scheme members.<sup>190</sup> We have considered these comments in our analysis below.
- 5.6 The Ombudsman Association commented that having a single scheme would facilitate Ofcom's oversight of whether schemes meet the relevant KPIs.<sup>191</sup> As set out in Section 4, we propose to re-approve both schemes. We do not believe that the existence of two schemes undermines our oversight capabilities. In fact, it enables us to draw comparisons between the performances of the two schemes.

## Our assessment of the KPIs

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- 5.7 After reviewing the available evidence, it is our assessment that while the KPIs broadly cover the right areas, some of the KPIs are not set at the right level and could be adjusted to more accurately reflect the schemes’ performance in key areas, incentivise continuous improvement and enhance our oversight of the schemes. Setting effective KPIs also helps build consumer confidence in the ADR process.
- 5.8 The quarterly data shows that the schemes easily achieve or exceed the majority of the existing KPIs. Because the schemes consistently overperform against the existing KPIs, the KPIs may no longer be as effective as they once were in helping us to identify any potential

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<sup>186</sup> It should be noted that due to the schemes’ differing processes, the decisions issued for CISAS represent its final decision whereas, for CO, it represents the point at which an initial decision is issued.

<sup>187</sup> If a scheme misses a KPI for two successive quarters, formal engagement with Ofcom is triggered and it could potentially lead to the launch of a formal review of the scheme’s approval.

<sup>188</sup> [Communications Ombudsman response to the 2023 CFI](#), p. 1.

<sup>189</sup> [Which? response to the 2023 CFI](#), p. 6.

<sup>190</sup> [Hutchison 3G UK Limited \(trading as Three\) response to the 2023 CFI](#), p. 1.

<sup>191</sup> [Ombudsman Association response to the 2023 CFI](#), p. 3.

problems with the schemes or areas for improvement. If the schemes easily exceed the existing KPIs, they may also have less of an incentive to reflect on and improve their case handling processes. Furthermore, some of the KPIs do not reflect the ways that the schemes now communicate with consumers since they haven't been significantly updated since they were introduced. For example, with most correspondence between the schemes and consumers now taking place online, a reply target of 10 days for all written correspondence seems outdated.

- 5.9 It is therefore our view that it would be beneficial to refresh and adjust the KPIs. Tightening the KPIs will challenge the schemes to improve their performance, driving better outcomes for consumers. Adjusting some of the KPIs to ensure they reflect the way the schemes communicate with consumers will allow Ofcom to assess the schemes' performance more accurately, improving our oversight of the schemes and our ability to identify any problems should they arise.
- 5.10 We also consider that our oversight of the schemes can be improved by the schemes reporting on and publishing customer satisfaction data, giving Ofcom better insight into consumer experiences of ADR.

## Call answer times KPIs

- 5.11 The schemes currently report against two call answer time KPIs:
- more than 80% of calls to be answered in less than two minutes; and
  - more than 90% of calls to be answered in less than five minutes.

These KPIs help Ofcom to ensure that consumers' calls to the schemes are answered in a timely way.

## Participants value telephone contact

- 5.12 Our research found that participants valued telephone contact with the schemes. For instance, many participants who had an initial phone call with the scheme at the start of the process felt it easier to interact with the Case Management System (CMS), which some participants found difficult to navigate.<sup>192</sup>
- 5.13 It was found that CO relied more on telephone contact throughout the ADR journey than CISAS. At the beginning of the ADR process, CO offered research participants a set-up phone call with a designated caseworker to discuss their case and the ADR process.<sup>193</sup> CO also communicates some case outcomes via phone, with our research indicating that participants were generally positive about receiving a phone call to communicate their case decision.<sup>194</sup>
- 5.14 In contrast, CISAS does not proactively offer phone calls as a standard element of the case journey. However, the CISAS team is available to assist anyone with over the phone support throughout the case journey.<sup>195</sup>
- 5.15 Our research showed that participants welcome CO's proactive approach to telephone contact. For example, some participants said the set-up phone call with their designated

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<sup>192</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 28.

<sup>193</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 28.

<sup>194</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 41.

<sup>195</sup> Ofcom/CISAS meeting, 13 August 2024.

caseworker made them feel that someone would be with them the whole way and helped put some of the more nervous participants at ease.<sup>196</sup>

- 5.16 Given the importance participants placed on telephone contact, we sought to understand in more detail the consumer experience of interacting with the schemes by phone.
- 5.17 Both schemes receive a high volume of phone calls, especially in relation to active cases. On average CISAS receives about 1400 to 1500 calls per month, which is equivalent to 33% of its contact.<sup>197</sup> A large proportion of these calls are initial enquiries, in which consumers seek information about the process prior to making a claim. CISAS also explained that they are sometimes mistaken for a communications provider, and consumers contact them to discuss their claims.<sup>198</sup> For CO, 54% of correspondence takes place via telephone.<sup>199</sup> Despite high call volumes, the average consumer will have their call answered within 60 seconds.<sup>200 201</sup>
- 5.18 CISAS' approach to call handling is that the phone gets answered by any available member of staff. CISAS' parent company, CEDR, has an overflow team of case officers to assist the CISAS team in the event of periods of higher-than-expected call volumes. However, this team is rarely needed.<sup>202</sup> Because the call is not routed to a specific case manager, CISAS is able to answer almost all calls in under two minutes.
- 5.19 CO, on the other hand, has a different approach to call handling and higher call volumes than CISAS. When a consumer calls CO about an active case, they are asked to provide a case reference number and are then connected to their dedicated case manager.<sup>203</sup> If the CO case manager does not answer the call, the caller will be connected to a voicemail facility with a personal message about the availability of the case manager. If the caller contacts CO again before the case manager is available, the caller is identified as a repeat caller and routed to the next available case agent instead of to the voicemail.<sup>204</sup> Calls that reach individuals' voicemails are not included in the KPI data.<sup>205</sup> While CO may not answer as many calls in under two minutes, consumers get the benefit of speaking to their dedicated case manager when they call CO.

## Our proposal

- 5.20 We assessed the performance of both schemes against the existing KPIs and considered whether the KPIs are focused on the right areas and set at an appropriate level.

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<sup>196</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 28.

<sup>197</sup> CISAS response dated 21 August to our follow-up email dated 20 August 2024; and CISAS response dated 6 September 2024 to our follow-up email dated 6 September 2024.

<sup>198</sup> Ofcom/CISAS meeting, 13 August 2024.

<sup>199</sup> CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>200</sup> CISAS response dated 21 August to our follow-up email dated 20 August 2024; and CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>201</sup> For CO, during the period between January 2024 to July 2024, the average call response time was 56 seconds. For CISAS, during the period between June 2024 to August 2024, the average call response time was within 60 seconds.

<sup>202</sup> Ofcom/CISAS meeting, 13 August 2024

<sup>203</sup> Ofcom/CO meeting, 13 August 2024.

<sup>204</sup> CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>205</sup> CO response dated 13 September 2024 to our follow-up email dated 6 September 2024.

5.21 Given the importance participants place on telephone contact – and CO’s preference for communicating with consumers over the phone – it is our view that Ofcom should continue to monitor the schemes’ performance in this area.

**Figure 5: Performance against the existing call answer times KPIs**

KPI	Scheme	2022	2023				2024		
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
More than 80% of calls to be answered in less than two minutes	CO	82%	85%**	87%	84%**	88%	81%**	82%**	85%**
	CISAS	99%	99%	99%	99%	99%	99%	99%	99%
More than 90% of calls to be answered in less than five minutes	CO	98%**	98%**	99%**	98%**	98%	97%**	97%**	95%**
	CISAS	100%	100%	100%	100%	100%	100%	100%	100%

\*\* This is rounded up to the nearest whole percentage.

- 5.22 In relation to the two-minute call answer time KPI, CISAS regularly answers 99% of calls within two minutes and we recognise that there is very little scope for CISAS to improve their performance in this area, which means any proposed changes to the KPI will mainly affect CO.
- 5.23 While CO usually answers more than 80% of calls within two minutes, CO’s higher call volumes and more proactive approach to telephone contact with consumers means CO faces specific challenges in improving their performance against this KPI. That having been said, we do believe there is scope for CO to increase the percentage of calls they answer within two minutes, which would improve the experience for consumers. We think this is particularly important for consumers dealing with CO given the higher reliance placed on telephone communication by the scheme. Data in figure 5 shows CO has answered 85% or more of calls within 2 mins in half of the last eight quarters. **We are therefore proposing to tighten this KPI, with the expectation that the schemes should answer 85% of calls within two minutes.**
- 5.24 In relation to the five-minute call answer time KPI, both schemes easily exceed this KPI. Over the last eight quarters, CISAS has answered 100% of calls within 5 minutes and CO, on average, has answered almost 98% of calls within 5 minutes.
- 5.25 We did consider if there was value in retaining this KPI given that both schemes have far exceeded the 90% target for this KPI for at least the last eight quarters. It is our view that it would be useful to retain this KPI as a backstop protection and tighten it to 95% to more accurately reflect the schemes performance in this area. This will help Ofcom to monitor any issues with call handling that may arise in future and help us to ensure that most consumer calls to the schemes are answered in a timely manner. **We are therefore proposing to tighten this KPI, with the expectation that the schemes should answer 95% of calls within 5 minutes.**

## Written correspondence KPI

- 5.26 The schemes currently report against one KPI in relation to written correspondence: 100% of written correspondence to be replied to within ten days. This KPI helps Ofcom to ensure that the schemes respond to consumer correspondence in a timely way.
- 5.27 For the purposes of this KPI, ‘written correspondence’ includes written communications the schemes receive online (via email or through the CMS) or via post (letters).

### Most correspondence takes place online but some consumers still rely on letters

- 5.28 Once a case has been accepted, most correspondence between consumers and the schemes takes place through online channels, either through the CMS or via email. When looking at a specific three-month period (June 2024 to August 2024), CISAS noted that on average 50% of correspondence was received via email, and 17% of contact was made via the CMS.<sup>206</sup>
- 5.29 Our research found that some participants found the online process very straightforward, while other participants struggled with the schemes’ digital approach to case management, and that it was CISAS participants in particular who found the CMS tricky to navigate.<sup>207</sup>
- 5.30 The schemes told us that they usually reply to online correspondence within 3 to 5 working days.<sup>208 209</sup>
- 5.31 While letter volumes on active cases are low, some consumers still rely on letters as a method of communicating with the schemes. CISAS still receive several new applications via post; on average, this could be 15 to 20 new applications per week. If applications come in via post and they have an email provided, CISAS answers via email.<sup>210</sup> Similarly, CO told us that in 2024, they received, on average, 67 letters per week and that these letters often include case-relevant documents, e.g. evidence or decisions on case acceptance or rejection.<sup>211</sup>
- 5.32 The schemes told us that they usually reply to letters within 5 to 7 working days.<sup>212 213</sup> It takes the schemes longer to respond to letters than online correspondence due to the additional processing required. The schemes explained that as a first step, letters are scanned and uploaded into an online system. They are then allocated internally, reviewed, organised and processed. Where applications for new cases come in, the case is set up on the CMS, and documents are separated, e.g. into evidence and notes, and attached

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<sup>206</sup> CISAS response dated 6 September 2024 to our follow-up email dated 6 September 2024.

<sup>207</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 59 and 28.

<sup>208</sup> CISAS response dated 21 August to our follow-up email dated 20 August; and CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>209</sup> For CO, during the period between January 2024 to July 2024, the average response time for online correspondence was 5 days. For CISAS, during the period between June 2024 to August 2024, the average response time for online correspondence was 3 to 5 working days.

<sup>210</sup> Ofcom/CISAS meeting, 13 August 2024.

<sup>211</sup> CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>212</sup> CISAS response dated 21 August to our follow-up email dated 20 August; and CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>213</sup> For CO, during the period between January 2024 to July 2024, the average response time for letter correspondence was 5 days. For CISAS, during the period between June 2024 to August 2024, the average response time for letter correspondence was 5-7 working days.

accordingly. CISAS noted that if postal correspondence is required, in line with their quality assurance process, correspondence is reviewed prior to being issued. If a consumer submits a USB stick or similar device, this needs to be checked by CISAS' IT team for security and safety.<sup>214</sup>

## Our proposal

5.33 We assessed the schemes' performance against the existing KPI and considered if the KPI is focused on the right area and set at an appropriate level.

**Figure 6: Performance against the existing written correspondence KPI**

KPI	Scheme	2022	2023				2024		
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
<b>100% of written correspondence to be replied to within ten days</b>	CO	100%	100%	100%	100%	100%	100%	100%	100%
	CISAS	100%	100%	100%	100%	100%	100%	100%	100%

5.34 As written correspondence accounts for a significant portion of communication between the schemes and consumers, it is our view that Ofcom should continue to monitor the schemes' performance in this area.

5.35 However, the current KPI groups all forms of correspondence together and doesn't reflect the processes for dealing with different types of correspondence. To account for this difference, **we propose the introduction of a new KPI for digital correspondence (to include email and CMS correspondence).**

5.36 The schemes have told us that they usually respond to online communications within 3-5 working days. While we think this is a reasonable timeframe, we consider that the schemes should aim to respond to most online correspondence in the shorter timeframe within that range of 3 working days.

5.37 However, we recognise that tighter correspondence targets must not come at the expense of the quality of communications. To safeguard accurate and high-quality correspondence, we propose setting a target of 90% to allow the schemes the necessary time to respond to more complex queries and maintain the quality of the correspondence. **We therefore propose that the schemes should respond to 90% of digital correspondence within 3 working days.**

5.38 Due to the length of time that it takes the schemes to process letters and external factors that may cause delays in the delivery of letters (for example, bank holidays or weather events), **we propose maintaining the 10-day target for responding to 100% of all written correspondence (whether postal or digital).** This will also provide a backstop protection to ensure any digital correspondence not dealt with within the target of 3 working days will have to be responded to within 10 working days.

<sup>214</sup> CISAS response dated 21 August to our follow-up email dated 20 August 2024.

## More than 90% of case decisions reached within 6 weeks of the case being accepted

5.39 The schemes report against their case closure timelines, and they are expected to issue more than 90% of case decisions within 6 weeks of the case being accepted. This KPI helps Ofcom to ensure that the schemes resolve cases in a timely way.

### Most participants are satisfied with the length of time it takes for a case decision to be reached

5.40 Both schemes commence their assessment against this KPI from the moment a case is accepted as eligible. However, due to the nature of the schemes' individual case processes, the endpoint of the KPI differs. For CISAS, the decisions issued represents their final decision, whereas, for CO, they represent the point at which an initial decision is issued. The period for the appeals process is not factored into the KPI assessment. CO informed us that the average time for the appeals process is around 25 days. However, this includes up to 14 days of response time for either party.<sup>215</sup>

5.41 Our consumer research found that the majority of participants were satisfied with the length of time it takes for a case decision to be reached.<sup>216</sup> However, participants whose ADR process took over four weeks felt that progress could be too slow.<sup>217</sup> In addition, some felt timescales could be burdensome and/or stressful, particularly when participants were, for example, without broadband or mobile phone service or had vulnerabilities.<sup>218</sup>

### Our proposal

5.42 We assessed the schemes' performance against the existing KPI and considered if the KPI is focused on the right area and set at an appropriate level.

5.43 It is our view that Ofcom should continue to monitor the schemes' performance in this area to ensure consumers receive case decisions as quickly as possible.

5.44 Both schemes have met and exceeded the current target of 90% by some distance for the past eight quarters, which suggests the KPI may no longer be set at the right level to reflect the schemes' performance.

**Figure 7: Performance against the existing 90% case decisions within 6 weeks KPI**

KPI	Scheme	2022	2023				2024		
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
More than 90% of case decisions*	CO	96%*	97%**	98%**	99%	99%	99%**	99%**	99%**

<sup>215</sup> CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>216</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 22.

<sup>217</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 20 and 21.

<sup>218</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 22.

KPI	Scheme	2022	2023				2024		
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
reached within 6 weeks of the case being accepted	CISAS	95%	97%	98%	98%	97%	99%**	99%**	99%**

\* The two schemes have different processes. When we talk about 'decisions', for CISAS this represents their final decision, while for CO it represents their initial decision.

\*\* This is rounded up to the nearest whole percentage.

5.45 We considered increasing the percentage of cases the schemes must resolve within 6 weeks from 90% to 95%. We recognise that both schemes are already issuing case decisions within 6 weeks for more than 95% of cases, so changing the level of the KPI would not necessarily lead to consumers getting a quicker outcome. However, increasing the level of the KPI to 95% would more accurately reflect the performance of the schemes in this area and give consumers confidence about the speed in which a decision is likely to be made.

5.46 We also considered maintaining the 90% target but reducing the number of weeks in which the schemes must achieve this target (e.g. 4 weeks instead of 6 weeks). However, we are aware that a high proportion of case decisions are issued between weeks 5 and 6 and that reducing the 6-week timeframe could reduce the time consumers and providers have to provide and respond to evidence.<sup>219</sup> We are concerned that reducing this timeframe could come at the expense of consumers, by giving them less time to submit and respond to evidence, and potentially put consumers at risk of receiving a poorer service due to the schemes having to rush decisions to meet a 4-week target.

5.47 We therefore propose **increasing the percentage of case decisions to be issued within 6 weeks to 95%** to bring it more in line with the schemes' performance in this area.

## Less than 1% of case decisions to be issued later than eight weeks after the case has been accepted

5.48 The schemes are expected to issue at least 99% of case decisions within 8 weeks of the case being accepted. This KPI helps Ofcom to ensure that most cases are resolved within 8 weeks.

5.49 We do not expect the schemes to complete 100% of cases within 8 weeks to allow the schemes sufficient flexibility to deal with more complex cases, cases involving a large amount of postal correspondence (see paragraph 5.33), and cases involving vulnerable or disabled consumers who may require reasonable adjustments.

5.50 Both schemes operate reasonable adjustment policies to ensure they can cater to consumers who require additional support. Reasonable adjustments typically include extending in-process timelines (for example, giving the consumer more time to respond),

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<sup>219</sup> CISAS response dated 6 September 2024 to our follow-up email dated 6 September 2024; CO response dated 13 September 2024 to our follow-up email dated 6 September 2024.

communicating with consumers via their preferred method, and providing information in alternative formats (e.g. braille or large prints).<sup>220</sup>

- 5.51 Our consumer research found that most participants who were eligible for reasonable adjustments were aware that additional support was available even if they did not choose to apply for it.<sup>221</sup> Lucerna also assessed 10 cases from each scheme where reasonable adjustments had been made for the consumer and found these adjustments broadly appropriate.<sup>222</sup>

## Our proposal

- 5.52 We assessed the schemes' performance against the existing KPI and considered if the KPI is focused on the right area and set at an appropriate level.
- 5.53 It is our view that Ofcom should continue to monitor the schemes' performance in this area to ensure most cases are resolved within 8 weeks and that the schemes have sufficient time to deal with more complex cases or provide support to consumers who require reasonable adjustments.

**Figure 8: Performance against the existing less than 1% of case decisions exceeding 8 weeks KPI**

KPI	Scheme	2022	2023				2024		
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
<b>Less than 1% of case decisions* to be issued later than eight weeks after the case has been accepted</b>	CO	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%
	CISAS	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%

\* The two schemes have different processes. When we talk about 'decisions', for CISAS this represents their final decision, while for CO it represents their initial decision.

- 5.54 Both schemes have met this KPI for the past eight quarters. However, CISAS has raised concerns that a spike in complex cases or an increase in the number of consumers requiring reasonable adjustments could make it difficult for them to achieve the <1% target.<sup>223</sup>
- 5.55 While we recognise the concern raised by CISAS, the schemes share data with us monthly on the number of consumers who have requested a reasonable adjustment, and this number has remained relatively stable for the past two years.<sup>224</sup>
- 5.56 We will continue our regular engagement with the schemes in relation to their performance against all the KPIs, where they can raise any concerns that they may have about missing a

<sup>220</sup> CISAS. [Vulnerability and Reasonable Adjustments](#) [accessed 9 January 2025]. CO. [Reasonable Adjustments Guide](#) [accessed 9 January 2025].

<sup>221</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 57.

<sup>222</sup> Lucerna, 2024. Alternative Dispute Resolution (ADR) case review report, p. 15.

<sup>223</sup> Ofcom/CISAS meeting 13 August 2024; and CISAS response dated 21 August 2024 to our follow-up email dated 20 August 2024.

<sup>224</sup> CISAS monthly activity report, September 2024.

KPI due to an influx of complex cases or because more consumers require additional support.

- 5.57 We therefore propose **maintaining the level of this KPI at less than 1% of cases decisions to be issued later than eight weeks after the case has been accepted.**

## Improving our oversight of consumer satisfaction

- 5.58 The current KPIs do not cover customer satisfaction with the ADR process.
- 5.59 However, our analysis shows that case outcome has a clear impact on consumers' perception of the ADR process. Our consumer research found that 22 participants out of 28 who received an outcome they accepted were satisfied overall with the ADR process. In contrast, just one participant out of 8 who received an outcome they intended to appeal/reject was satisfied overall with the ADR process.<sup>225</sup>
- 5.60 This aligns with what both schemes have told us about the relationship between case outcome and consumer satisfaction levels, which makes it difficult to distinguish customer service issues from issues where the consumer is unhappy with the case outcome.
- 5.61 Despite this difficulty, both CO and CISAS regularly assess customer satisfaction levels as part of the ADR processes, but their approaches differ. CO surveys consumers at four different points in the ADR process (see Figure 9 below). For CISAS, consumers are surveyed only after the adjudication process is complete. The schemes also use different sets of questions in their surveys.

**Figure 9: Customer survey touchpoints, CO**<sup>226</sup>



- 5.62 Another key difference in customer satisfaction assessment relates to the split between successful and unsuccessful claims. CISAS' survey splits results into claim successful, claim succeeded in part, and claim did not succeed, while CO does not differentiate between the outcome of the case.<sup>227</sup>
- 5.63 Both schemes have dedicated customer satisfaction teams that review customer feedback and drive customer experience innovation and improvement.<sup>228</sup> Similarly, the schemes offer extensive training to their staff. CISAS staff receive training by an external provider, internal training by scheme trainers and team managers, training via online management systems,

<sup>225</sup> Jigsaw, 2024. Understanding the Alternative Dispute Resolution (ADR) process, full report, slide 53.

<sup>226</sup> CO response dated 13 September 2024 to our follow-up email dated 6 September 2024

<sup>227</sup> CO response dated 13 September 2024 to our follow-up email dated 6 September 2024

<sup>228</sup> CISAS response dated 6 September 2024 to our follow-up email dated 6 September 2024; and Ofcom/CO meeting, 13 August 2024.

and 1-2-1 training covering various scenarios.<sup>229</sup> CISAS also uses an external organisation to conduct mystery-shopping exercises in relation to initial enquiries to review staff performance.<sup>230</sup> CO staff new to the organisation receive call handling and correspondence response training, as well as regular coaching which includes call quality assurance.<sup>231</sup>

- 5.64 CISAS publishes some customer satisfaction data on their website, but CO does not.<sup>232</sup> Instead, CO references some customer satisfaction scores in their annual reports.<sup>233</sup>
- 5.65 While we note that the schemes have measures in place for monitoring consumer satisfaction with the ADR process, their different approaches to collecting and publishing the data make it difficult for Ofcom to provide sufficient oversight in this area.
- 5.66 We considered introducing a new customer satisfaction KPI based on criteria set by Ofcom, which would allow us to harmonise and standardise the schemes' approach to collecting customer satisfaction data and develop metrics that allow us to probe into the areas that may be most pressing to assess customer satisfaction. However, we are concerned that developing an entirely new approach to consumer satisfaction reporting may not be proportionate. We regard the customer satisfaction data that the two schemes currently collect as generally reliable and valuable and recognise the evidence-based approach that schemes took to develop their criteria. Furthermore, our analysis does not indicate deep-rooted issues that would justify a complete overhaul of the schemes' customer satisfaction methodologies.

## Our proposal

- 5.67 While we do not think it is proportionate to introduce a new KPI, we do consider it would be helpful to have more harmonisation of the customer satisfaction data to allow for more efficient monitoring and oversight of the schemes' performance. For example, we think it would be beneficial for both schemes to collect customer satisfaction data before and after the case decision and that this should be split into upheld and not upheld cases to avoid the case outcome skewing overall customer satisfaction levels. We anticipate the necessary adjustments to schemes' existing customer satisfaction measurement approaches to be small.
- 5.68 We also see the benefits of both schemes publishing this information on their websites. While consumers cannot choose which scheme to use, visibility of customer satisfaction data may help build consumer trust in the ADR process. It may also help inform providers' decisions on which scheme to sign up for.
- 5.69 To improve Ofcom's oversight in this area, **we will work with the schemes to harmonise and improve the consistency of their customer satisfaction data.** We will also request that the schemes publish this information on their respective websites.

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<sup>229</sup> CISAS response dated 21 August 2024 to our follow-up email dated 20 August 2024.

<sup>230</sup> CISAS response dated 21 August 2024 to our follow-up email dated 20 August 2024.

<sup>231</sup> CO response dated 30 August 2024 to our follow-up email dated 20 August 2024.

<sup>232</sup> CISAS. [Reports](#) [accessed 9 January 2025].

<sup>233</sup> CO. [Annual Reports](#) [accessed 9 January 2025].

## Summary of the proposed KPIs

- 5.70 To summarise, we propose the new set of KPIs that the schemes would be expected to meet, and that Ofcom would report on a quarterly basis are:
- a) More than 85% of calls to be answered in less than two minutes.
  - b) More than 95% of calls to be answered in less than five minutes.
  - c) 90% of digital correspondence to be replied to within 3 working days.
  - d) 100% of written correspondence to be replied to within 10 working days.
  - e) More than 95% of case decisions reached within 6 weeks of the case being accepted.
  - f) Less than 1% of case decisions to be issued later than 8 weeks after the case has been accepted.
- 5.71 We propose to give the schemes 3 months, from the date our statement is published, to implement and report against the new KPIs. We consider this is sufficient time for the schemes to make the necessary process and reporting changes required to meet these new KPIs.

## Consultation questions

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**Question 7:** Do you agree with our proposed changes to the KPIs including the proposed implementation period? Please provide reasons.

# A1. Responding to this consultation

## How to respond

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- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on Wednesday 12 March 2024.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/phones-and-broadband/service-quality/review-of-adr-in-the-telecoms-sector2/>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [ADRreview@ofcom.org.uk](mailto:ADRreview@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet. This email address is for this consultation only and will not be valid after 12 March 2024.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- ADR Review team,  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
  - upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.10 If you want to discuss the issues and questions raised in this consultation, please email [ADRreview@ofcom.org.uk](mailto:ADRreview@ofcom.org.uk).

## Confidentiality

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- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. This can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on the Ofcom website at regular intervals during and after the consultation period.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website.
- A1.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

## Next steps

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- A1.16 Following this consultation period, Ofcom plans to publish a statement in summer 2025.
- A1.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

## Ofcom's consultation processes

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- A1.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.19 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

# A2. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

## Before the consultation

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1. Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

## During the consultation

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2. We will be clear about whom we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
4. When setting the length of the consultation period, we will consider the nature of our proposals and their potential impact. We will always make clear the closing date for responses.
5. A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
6. If we are not able to follow any of these principles, we will explain why.

## After the consultation

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7. We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

# A3. Consultation coversheet

## Basic details

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Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

## Confidentiality

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Please tick below what part of your response you consider is confidential, giving your reasons why

- > Nothing
- > Name/contact details/job title
- > Whole response
- > Organisation
- > Part of the response

If you selected 'Part of the response', please specify which parts:

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes       No

## Declaration

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I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

# A4. Consultation questions

Please tell us how you came across about this consultation.

- Email from Ofcom
- Saw it on social media
- Found it on Ofcom's website
- Found it on another website
- Heard about it on TV or radio
- Read about it in a newspaper or magazine
- Heard about it at an event
- Somebody told me or shared it with me
- Other (please specify)

**Question 1:** Do you agree with our provisional analysis of whether our rules which facilitate access to ADR are meeting our objective?

**Question 2:** Do you agree with our proposal to modify the GCs to reduce the timeframe for access to ADR to 6 weeks?

**Question 3:** Do you agree with the findings of our provisional impact assessment?

**Question 4:** Do you agree with our proposed implementation period?

**Question 5:** Do you agree with our provisional assessment and proposal to re-approve both schemes based on the approval criteria set out in the Act? Please provide your reasoning.

**Question 6:** Do you agree with our proposed changes to the decision-making principles? Please provide your reasoning.

**Question 7:** Do you agree with our proposed changes to the KPIs including the proposed implementation period? Please provide reasons.

# A5. Notification proposing modifications to General Condition C4 – Complaints handling and dispute resolution section

## Notification of Ofcom’s proposals to modify the Annex to General Condition C4 under sections 48(1) and 48A(3) of the Communications Act 2003

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- A5.1 Ofcom, in accordance with sections 48(1) and 48A(3) of the Act, hereby proposes to modify the “Ofcom Approved Complaints Code” annexed to General Condition of Entitlement C4.
- A5.2 The proposed modifications are set out in the Schedule to this Notification.
- A5.3 Ofcom's reasons for making this proposal, and the effect of the proposal, are set out in section 3 of the accompanying consultation document.
- A5.4 Ofcom considers that these proposals comply with the requirements of sections 48, 48A and 48C of the Act, insofar as they are applicable.
- A5.5 In making these proposals, Ofcom has considered and acted in accordance with its general duties under section 3 of the Act and the six requirements set out in section 4 of the Act. Ofcom has also had regard to the Statement of Strategic Priorities in making the proposals referred to in this Notification.
- A5.6 Representations may be made to Ofcom about the proposals set out in this Notification by 5pm 12 March 2025.
- A5.7 If implemented, the amendments to the Ofcom Approved Complaints Code which forms the Annex to General Condition C4 shall enter into force 6 months from publication of the statement or such later date as specified in the final Notification.
- A5.8 A copy of this Notification and the accompanying consultation document has been sent to the Secretary of State in accordance with section 48C(1) of the Act.
- A5.9 In this Notification:
- a) 'the **Act**' means the Communications Act 2003;
  - b) '**General Conditions of Entitlement**' or 'General Conditions' means the general conditions set under section 45 of the Act by Ofcom on 19 September 2017, as amended from time to time;
  - c) '**Ofcom**' means the Office of Communications;

d) **'Statement of Strategic Priorities'** means the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services designated by the Secretary of State for Digital, Culture, Media and Sport for the purposes of section 2A of the Communications Act 2003 on 29 October 2019.

A5.10 Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.

A5.11 For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

A5.12 The Schedules to this Notification shall form part of this Notification

Signed by Fergal Farragher

A handwritten signature in black ink, appearing to read 'F. Farragher', with a long horizontal flourish extending to the right.

Director, Policy – Networks and Communications

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

15 January 2025

## Schedule: Proposed modifications to the Annex to General Condition C4

A5.13 This Schedule shows the modifications that we propose to make to the Annex to General Condition C4 in order to give effect to the policy proposals outlined in this consultation. The third column in the table below highlights in bold the changes we are proposing to make.

### Annex to General Condition C4

Relevant General Condition - General Condition C4.2	Current wording	Proposed wording (changes shown in bold)
<p><b>Paragraph 12 in section 1 of the Annex to Condition C4</b></p>	<p>The Regulated Provider must immediately issue an ADR Letter to the Complainant if the Complaint remains unresolved after 8 weeks have passed since the date on which the Complaint was first received, unless the Regulated Provider has already sent an ADR Letter in accordance with paragraph 11 above.</p>	<p>The Regulated Provider must immediately issue an ADR Letter to the Complainant if the Complaint remains unresolved after <b>six</b> weeks have passed since the date on which the Complaint was first received, unless the Regulated Provider has already sent an ADR Letter in accordance with paragraph 11 above.</p>

Relevant General Condition - General Condition C4.2	Current wording	Proposed wording (changes shown in bold)
<p><b>Paragraph 17(d) in section 2 of the Annex to Condition C4</b></p>	<p>The Customer Complaints Code must be kept up to date and include information about:...</p> <p>(d) the right for a Complainant to take their unresolved Complaint to the ADR Scheme after eight weeks have passed since the date on which the Complaint was received, and the circumstance (under paragraph 11 above) where the Complainant can do so at any</p>	<p>The Customer Complaints Code must be kept up to date and include information about:...</p> <p>(d) the right for a Complainant to take their unresolved Complaint to the ADR Scheme after <b>six</b> weeks have passed since the date on which the Complaint was received, and the circumstance (under paragraph 11 above) where the Complainant can do so at any</p>
<p><b>Paragraph 23(b) in section 3 of the Annex to Condition C4</b></p>	<p>For each month, Regulated Providers must retain a record of the following: ...</p> <p>(b) the number of ADR Letters sent in that month for unresolved Complaints in accordance with paragraph 12 (i.e. after eight weeks have passed)</p>	<p>For each month, Regulated Providers must retain a record of the following: ...</p> <p>(b) the number of ADR Letters sent in that month for unresolved Complaints in accordance with paragraph 12 (i.e. after <b>six</b> weeks have passed)</p>

Relevant General Condition - General Condition C4.2	Current wording	Proposed wording (changes shown in bold)
<p><b>Paragraph 26(c) in section 4 of the Annex to Condition C4</b></p>	<p>26. Every Bill provided to Relevant Customers who are Consumers, excluding Bills provided by SMS, must also include, in a reasonably prominent manner, relevant text regarding the right of Relevant Customers to take unresolved Complaints to the ADR Scheme. That text must:...</p> <p>(c) inform Relevant Customers that the ADR Scheme can normally only be accessed after eight weeks have passed since the Complaint was first made to the Regulated Provider; and</p>	<p>26. Every Bill provided to Relevant Customers who are Consumers, excluding Bills provided by SMS, must also include, in a reasonably prominent manner, relevant text regarding the right of Relevant Customers to take unresolved Complaints to the ADR Scheme. That text must:...</p> <p>(c) inform Relevant Customers that the ADR Scheme can normally only be accessed after <b>six</b> weeks have passed since the Complaint was first made to the Regulated Provider; and</p>

# A6. Decision Making Principles

In this annex, we set out the proposed changes to the decision making principles and a marked-up version of the decision making principles to provide context of these changes.

## Table of proposed changes to decision making principles

Section	Current text	Proposed text	Notes
<b>Guiding Principles</b>	<p>A6.2 In doing so, the Schemes should consider decisions in accordance with the following principles:</p> <ul style="list-style-type: none"> <li>• Independence</li> <li>• Fairness</li> <li>• Impartiality</li> <li>• Openness</li> <li>• Transparency</li> <li>• Effectiveness</li> <li>• Accessibility</li> <li>• Consistency</li> <li>• Measured performance</li> <li>• Official Approval</li> <li>• Accountability</li> </ul>	<p>A6.2 In doing so, the Schemes should consider decisions in accordance with the following principles:</p> <ul style="list-style-type: none"> <li>• Independence</li> <li>• Fairness</li> <li>• Impartiality</li> <li>• Openness</li> <li>• Transparency</li> <li>• Effectiveness</li> <li>• Accessibility</li> <li>• Consistency</li> <li>• Accountability</li> </ul>	Measured performance and Official Approval principles removed.
<b>Decision Guidelines</b>	A6.3 In achieving a fair and reasonable outcome for both parties, the Scheme’s decision-maker will:	A6.3 In achieving a fair and reasonable outcome for both parties, the Scheme’s decision-maker will:	Minor changes to i., iv., vi., and vii.

	<ul style="list-style-type: none"> <li>i. Be able to demonstrate that they have treated the CP and the consumer fairly so that neither is unduly disadvantaged.</li> <li>ii. Remain objective and shall promote neither the position of the consumer nor that of the CP.</li> <li>iii. Consider the evidence presented by the parties, the specific circumstances, and other information directly relevant to the dispute and shall consider whether to request further information from either party.</li> <li>iv. Recognise that both parties must, where it is in their possession, provide evidence relevant to the matters in dispute.</li> <li>v. Give equal consideration to the word of the consumer and the word of the CP.</li> <li>vi. Be mindful of, but not bound by, past rulings in or similar cases.</li> <li>vii. Where appropriate take account of, but not rely on, the usual behaviour or practices of either the CPs or consumer.</li> <li>viii. Have regard to the relevant regulations, law and terms and conditions.</li> <li>ix. Ensure that the outcome will be based on the balance of probabilities in the</li> </ul>	<ul style="list-style-type: none"> <li>i. Be able to demonstrate that they have treated the CP and the consumer equally so that neither is disadvantaged.</li> <li>ii. Remain objective and shall promote neither the position of the consumer nor that of the CP.</li> <li>iii. Consider the evidence presented by the parties, the specific circumstances, and other information directly relevant to the dispute and shall consider whether to request further information from either party.</li> <li>iv. Recognise that both parties must, where it is in their possession, provide evidence relevant to the matters in dispute to support their position.</li> <li>v. Give equal consideration to the word of the consumer and the word of the CP.</li> <li>vi. Be mindful of, but not bound by, past decisions or similar cases.</li> <li>vii. Where appropriate take account of, but not rely on, the usual behaviour or practices of either CPs or consumers.</li> <li>viii. Have regard to the relevant regulations, law and terms and conditions.</li> </ul>	
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	<p>absence of conclusive evidence and give full reasons for any decision.</p> <p>A6.4 The Schemes will aid the consistent application of these Decision Guidelines by working from time to time with Ofcom and one another on examples of typical and testing cases.</p>	<p>ix. Ensure that the outcome will be based on the balance of probabilities in the absence of conclusive evidence and give full reasons for any decision.</p> <p>A6.4 The Schemes will aid the consistent application of these Decision Guidelines by working from time to time with Ofcom and one another on examples of typical and testing cases.</p>	
<b>Compensation Guidelines</b>	<p>A6.5 Pre-requisites for making an award. With all types of compensation awarded the decision-maker should clearly express:</p> <ul style="list-style-type: none"> <li>i. What breach has triggered the award</li> <li>ii. Why this breach is sufficient to justify an award</li> <li>iii. Factors affecting the size of the award</li> <li>iv. The precise level of the award</li> </ul>	<p>A6.5 ADR schemes must have the appropriate policies in place regarding compensation levels. Schemes must apply these policies consistently and provide internal guidance to staff on how such policies should be interpreted.</p>	<p>Replacing the existing paragraph with proposed text.</p>
<b>Compensation Guidelines</b>	<p>Setting the level of an award</p> <p><i>It should be noted that these Decision Making Principles are intended to serve as an aid to the decision-maker, through creating common reference points. The precise sums awarded should always be left to the discretion of the decision-maker.</i></p>	<p>Setting the level of an award</p> <p><i>It should be noted that this framework is intended to serve as an aid to the decision-maker, through creating common reference points. The precise sums awarded should always be left to the discretion of the decision-maker.</i></p>	<p>Minor changes to the paragraph.</p>

## Proposed revisions to the decision making principles

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### Objective of the Schemes

A6.1 To resolve disputes between consumers and communications providers (CPs).

### Guiding Principles

A6.2 In doing so, the Schemes should consider decisions in accordance with the following principles:

- Independence
- Fairness
- Impartiality
- Openness
- Transparency
- Effectiveness
- Accessibility
- Consistency
- ~~• Measured performance~~
- ~~• Official Approval~~
- Accountability.

### Decision Guidelines

A6.3 In achieving a fair and reasonable outcome for both parties, the Scheme's decision-maker will:

- i. Be able to demonstrate that they have treated the CP and the consumer equally ~~fairly~~ so that neither is ~~unduly~~ disadvantaged.
- ii. Remain objective and shall promote neither the position of the consumer nor that of the CP.
- iii. Consider the evidence presented by the parties, the specific circumstances, and other information directly relevant to the dispute and shall consider whether to request further information from either party.
- iv. Recognise that both parties must, where it is in their possession, provide evidence relevant to the matters in dispute to support their position.
- v. Give equal consideration to the word of the consumer and the word of the CP.
- vi. Be mindful of, but not bound by, ~~past rulings in~~ decisions or similar cases.

- vii. Where appropriate take account of, but not rely on, the usual behaviour or practices of either the CPs or ~~consumer~~ consumers.
  - viii. Have regard to the relevant regulations, law and terms and conditions.
  - ix. Ensure that the outcome will be based on the balance of probabilities in the absence of conclusive evidence and give full reasons for any decision.
- A6.4 The Schemes will aid the consistent application of these Decision Guidelines by working from time to time with Ofcom and one another on examples of typical and testing cases.

## Compensation Guidelines

~~A6.5 Pre-requisites for making an award. With all types of compensation awarded the decision-maker should clearly express:~~

- ~~i) What breach has triggered the award~~
- ~~ii) Why this breach is sufficient to justify an award~~
- ~~iii) Factors affecting the size of the award~~
- ~~iv) The precise level of the award~~

A6.5 ADR schemes must have the appropriate policies in place regarding compensation levels. Schemes must apply these policies consistently and provide internal guidance to staff on how such policies should be interpreted.

### Setting the level of an award

A6.6 The level of compensation awarded will be guided by a common approach to be used by the Schemes and developed by the Schemes and Ofcom based on current practice and principles.

*It should be noted that ~~this framework is these Decision Making Principles~~ are intended to serve as an aid to the decision-maker, through creating common reference points. The precise sums awarded should always be left to the discretion of the decision-maker.*

# A7. Description of methodology used to estimate effects on providers' costs

A7.1 This annex sets out our approach for estimating the additional costs that providers could face if the timeframe for access to ADR was reduced from 8 weeks to 6 weeks. We also describe the evidence we used and the main assumptions we applied.

## Overview of our approach and summary of our findings

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- A7.2 The cost to providers of dealing with disputes that go to ADR is typically higher than the costs associated with complaints that are resolved internally, by the providers themselves. This partly reflects the need for providers to involve specialist teams, who review the complaint and then decide whether to settle or defend it.<sup>234</sup> Moreover, for each complaint taken to ADR, providers pay settlement or adjudication fees to the scheme (depending on the outcome) and may incur additional costs for any remedy specified in the final decision.
- A7.3 We have therefore focussed on quantifying the costs that would accrue to the providers as a result of a potential increase in the number of disputes taken to ADR following a change in the timeframe for access from 8 weeks to 6 weeks.
- A7.4 Our starting point is that if the timeframe were shortened to 6 weeks, complaints that currently take between 6 weeks and 8 weeks for providers to resolve would instead receive an ADR letter, signposting the consumer to ADR, at 6 weeks.
- A7.5 Given the relatively low take-up rates of ADR among eligible consumers (i.e. the proportion of consumers who choose to access ADR after receiving an ADR letter from their provider), we expect that only a fraction of these disputes would be taken to ADR leading to additional costs for providers.
- A7.6 We consider that the increase in costs providers would incur for each additional complaint that would be taken to ADR following a change in the timeframe can be approximated by the difference between (i) the average cost of dealing with an ADR complaint (including complaints handling costs, fees and compensations) and (ii) the average cost of dealing with a business as usual (BAU) complaint (including complaints handling costs and compensations) the provider would typically resolve internally between weeks 6 to 8.<sup>235</sup> In other words, the difference between how much a complaint that would typically be

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<sup>234</sup> Settling a complaint is when the provider and consumer agree a resolution to the dispute without the scheme adjudicating on it. Defending the complaint refers to when the provider decides to 'argue its case' with the scheme, and therefore the dispute goes through the scheme's adjudication process. For example, [X] told us that specialist teams review the complaint file and decide whether to defend or settle the complaint. [X] told us that it had dedicated complaint handlers for ADR complaints, which will seek support or information from any relevant team within the business as required.

<sup>235</sup> Business as usual complaints (BAU) are those dealt with by providers as part of their 'day to day' customer complaints handling. They do not include providers activities and costs when complaints are taken to the schemes for adjudication.

resolved by the provider would cost to the provider in the absence of the proposed change (BAU costs) and how much the same complaint would likely cost the provider after the proposed change (ADR costs), assuming all else (e.g. consumer behaviour) is equal (i.e. not affected by the change).

A7.7 We have used information submitted by providers on (i) operational costs and compensation awarded to consumers for both BAU and ADR complaints; (ii) the number of complaints resolved by providers within certain timeframes; and (iii) the number of consumers who choose to access ADR after receiving an ADR letter.<sup>236</sup> Where relevant, we have also used supplementary information from other sources. Below, we discuss in detail the assumptions underpinning our calculations.

**Figure 10: Estimated yearly impact of proposed change on providers' costs**

	BT Group	Sky	Vodafone	Three	VMO2	TalkTalk	6 main providers
Additional complaints referred to ADR per year	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	64,000
Additional complaints taken to ADR per year	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	9,500
Additional operational costs per year	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£2,306,000
Additional compensation costs per year	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£1,065,000
Additional postage costs per year	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£53,000
<b>Total additional complaints handling costs per year</b>	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	<b>£3,424,000</b>

Source: Ofcom analysis of providers data. Estimates rounded to the closest thousand.

A7.8 Table 1 summarises our results. According to our estimates, the proposed change would increase complaints handling costs across the main 6 providers by c.£3.5 million per year. Taken together, this represents an increase of 2.2% compared to our estimate of the current costs of handling complaints across the six main providers. The impact on individual providers would vary, primarily reflecting differences in complaint resolution times among providers. While for [redacted], we estimate that the proposed change would

<sup>236</sup> Operational costs relate to internal costs of dealing with complaints (including the costs of outsourced teams), and in the case of complaints taken to ADR, costs incurred to defend or settle a dispute taken to ADR.

increase yearly complaints handling costs by less than 2.2% (between [X] and [X]), the respective increase for [X] would be higher [X], whereas for [X] it would be higher still [X]. [X].

- A7.9 We have further considered how an increase in providers' costs as a result of the proposed change may impact consumer expenditure if, for example, providers decided to fully pass on their costs to consumers. We have estimated that the respective average increase would be 11 pence per year per household, less than 0.02% of a household's yearly average expenditure for communications services.<sup>237</sup>

### Aspects we do not take into account in our cost estimates

- A7.10 Before going on to set out the steps of our analysis and explain our assumptions and the data we used, we note that our approach and respective cost estimates do not take into account:
- a) Any one-off costs providers may have to incur to harmonise their complaints handling processes with the proposed change.
  - b) Any second-order effects the proposed change may have on providers' incentives.
  - c) Any second-order effects the proposed change may have on consumers' behaviour.
  - d) Any cost savings that may accrue to providers as a result of the proposed change.
- A7.11 We discuss each point below and explain how these factors may affect the costs to providers from the proposed change.
- A7.12 We recognise that in addition to the costs stemming from the increase in ADR complaints, providers would also incur one-off costs as a result of the proposed change. These costs could include, for example, updating the training material for their complaints handling teams, re-training personnel or making changes to software and other systems. However, at this stage we have not been able to obtain an estimate of these costs, primarily due to lack of adequate data from providers.<sup>238</sup> Only two providers submitted an estimate, both of which were substantially different in magnitude ranging from between [X] and [X] for [X]<sup>239</sup> and [X] for [X]<sup>240</sup>. Based on this information, we understand that such costs are likely to vary significantly across providers.
- A7.13 The proposed change in the timeframe may incentivise providers to change their complaints handling processes in order to resolve complaints more quickly and efficiently, which may lead to more complaints being resolved within 6 weeks. However, while this may lower future ongoing costs below our estimates, such changes would probably involve additional investment. We decided not to account for these changes in our cost estimates,

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<sup>237</sup> To calculate the average cost per household we have divided the estimated increase in yearly costs across the 6 main providers by the number of households in the UK, which according to the most recent ONS data is 28.4 million. To calculate the average yearly expenditure per household, we used information from Ofcom's 2024 report on [Pricing trends for communications services in the UK](#) (figure 2) on the average monthly expenditure on bundled broadband and landline services of a low couple with basic needs, which stands at £55 per month. (We used this as our benchmark as if costs were to be passed on equally to all customers, those with lower expenditure would be more affected). The respective yearly cost is £660.

<sup>238</sup> During our engagement with providers [X] said that they were not able to provide estimates of such costs though [X] described them as "potentially significant".

<sup>239</sup> [X].

<sup>240</sup> [X].

as we are uncertain about the timeframe over which they would be implemented, as well as the costs associated with such changes.

- A7.14 Similarly, we have not considered the potential impact on providers' costs of any second order changes to consumer behaviour in response to shortening the timeframe. For instance, if consumers get access to ADR more quickly, they may be more likely to engage with the ADR process and pursue their complaint to the next stage with the scheme, which would also have an impact on providers' costs. In other words, eligible customers' 'take up' rate – the proportion of those receiving ADR letters who then pursue their complaint with the scheme – may increase. However, we do not have any evidence on how a change in the timeframe may impact consumer behaviour. Therefore, our cost estimates use historical data from the providers to calculate ADR take-up rates. This approach may understate the future extent to which consumers choose to pursue resolution through ADR and so the future costs.
- A7.15 Finally, we have not accounted for some other potential costs savings that providers may realise as a result of the proposed change. Such savings could, for example, relate to less resource being used to deal with those complaints that currently reach deadlock between 6 and 8 weeks or are not resolved within 8 weeks. We decided not to account for these savings on the basis that it was unclear what resource costs were being incurred given so few complaints were resolved in that two-week period.

## Our approach to estimating the costs of the proposed change

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- A7.16 We set out in greater detail below each step of our analysis, explaining our assumptions as well as the data we used.

### Estimating the increase in the number of ADR referrals and disputes taken to ADR

- A7.17 Not accounting for any secondary effects of a change in the timeframe on providers' resolution times or consumer behaviour<sup>241</sup>, we assume that if the threshold changed from 8 weeks to 6 weeks, all complaints that currently take between 6 weeks to 8 weeks to be resolved would instead receive an ADR letter from their provider by the 6<sup>th</sup> week.<sup>242</sup>

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<sup>241</sup> The main reason we have not accounted for such second order effects is lack of relevant evidence that would enable us to quantify such effects. The market research we conducted clearly suggests that consumers would value prompter access to ADR, but as we have focussed on people who went through the process, we do not know how the behaviour of those who chose not to access ADR or the behaviour of those who dropped the complaints process at an even earlier stage, is affected by the threshold.

<sup>242</sup> The complaints that are currently referred to ADR via deadlock between weeks 6 and 8 would instead receive a 6-week referral letter. However, we do not count these as additional ADR referrals as they would be referred to ADR though a different channel (deadlock) even in the absence of the proposed change.

- A7.18 Using the data on complaint resolution times submitted by the 6 main providers<sup>243</sup> in response to our statutory information requests,<sup>244</sup> we have estimated that approximately 64,000 additional ADR letters would be issued each year (jointly for the 6 main providers).<sup>245</sup>
- A7.19 However, not all eligible consumers (i.e. consumers who have the right to access ADR either due to deadlock or as a result of reaching the threshold for access) choose to access ADR. Using information submitted by the providers, we calculated the ADR ‘take-up’ rates for each provider, i.e. the share of consumers referred to ADR that then exercised this right.<sup>246</sup> Take-up rates are relatively low for all providers for which we have data, ranging between 4% [3] and 19% [3], with an average take up rate across the six providers of 13.4%.<sup>247</sup>
- A7.20 For each provider, we estimate the number of additional customers who would take their complaint to the relevant scheme every year, by multiplying our estimate of their ADR take-up rate with our estimate of the additional number of eligible customers if the timeframe were shortened to 6 weeks.<sup>248</sup> According to our calculations, there would be around 10,000 more ADR cases per year (jointly for the 6 providers for which we have collected data from).

## Estimating additional costs associated with changing the threshold for referral to 6 weeks

- A7.21 As a result of reducing the timeframe to 6 weeks, each provider would incur additional costs due to the increase in the number of disputes taken to ADR. Such costs would primarily relate to higher operational and compensation costs in relation to these complaints. We have also estimated the increase in postage costs associated with the additional referrals to ADR due to reaching the new threshold.

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<sup>243</sup> When referring to the 6 main providers we mean BT Group (including Plusnet and EE), Sky, Vodafone, Three, VMO2 and TalkTalk.

<sup>244</sup> BT Group response to the statutory information request dated 3 May 2024; Sky response to the statutory information request dated 3 May 2024; TalkTalk response to the statutory information request dated 3 May 2024; Three response to the statutory information request dated 3 May 2024; VMO2 response to the statutory information request dated 3 May 2024; and Vodafone response to the statutory information request dated 3 May 2024.

<sup>245</sup> This is equal to the sum across providers of the number of complaints that in the relevant period that were resolved between weeks 6 and 8. We have divided the data for all providers except for BT Group by two to account for the fact that all other providers provided data for the 24-month period 1 January 2022 to January 2024 whereas for BT Group data is only available for 12 months.

<sup>246</sup> In response to the statutory information requests dated 3 May 2024, providers submitted for the specified period (i.e. 1 January 2022 to 1 January 2024), the number of complainants that were referred to ADR and chose not to access it. For each provider, the take up rate is calculated as  $(1-x)\%$ , where  $x$  is the number of complainants that were referred to ADR and chose not to access divided by the total number of complainants that were referred to ADR over the same period.

<sup>247</sup> Take up rates for the remaining providers are: [3]. The take-up rate for [3], but this is using the number of accepted complaints from the scheme as a proxy of the number of people who accessed ADR based on the scheme’s response to the statutory information request dated 3 May 2024.

<sup>248</sup> More specifically, for each provider, we have multiplied the number of additional ADR referrals (i.e. the number of complaints that currently take longer than 6 weeks to resolve) by that provider’s ADR take-up rate.

## Additional operational costs

- A7.22 The proposed change may result in an increase in the number of complaints taken to ADR. In particular, complaints that providers would typically resolve between 6 to 8 weeks internally, incurring BAU costs, would be referred to ADR. A fraction of these complaints would become ADR complaints and providers would have to incur incremental costs associated with the ADR process (i.e. involving specialist teams, paying settlement/adjudication fees to the scheme, etc).
- A7.23 We calculated the incremental operational costs per additional ADR complaint as the difference between (a) the average operational cost of an ADR complaint and (b) the average operational cost of internally dealing with a BAU complaint that would typically be resolved by the provider between 6 and 8 weeks.
- A7.24 There is not a straightforward relationship between the average operational cost of a BAU complaint and the time it takes to resolve a complaint. Typically, more complex complaints would take longer to resolve and have higher costs for providers.<sup>249</sup> However, complaints may also stay open for longer without incurring additional costs, due to factors such as lack of customer responsiveness, waiting times due to other issues outside of the provider's control (e.g. for third-party engineers to respond, councils to give permits for road closures), etc.<sup>250</sup>
- A7.25 The time taken to resolve a complaint was not viewed as a key driver of operational costs and providers were not able to give us information on costs depending on how long it took to resolve a complaint. Therefore, we consider that the average operational costs of BAU complaints taking between 6 to 8 weeks to resolve are not systematically different from the operational costs of BAU complaints resolved within different timeframes. As a result, the costs between 6 to 8 weeks can be approximated by a measure of the average BAU costs across complaints resolved within different timeframes.
- A7.26 We therefore asked providers for data about the average operational cost of (i) dealing with a BAU complaint net of any customer compensation awarded; and (ii) dealing with an ADR complaint net of any customer compensation awarded.
- A7.27 Not all providers were able to give the information requested in a consistent format. We outline below the information each provider submitted and how this was used to obtain an estimate of the average cost of dealing with a BAU complaint versus the average cost of dealing with an ADR complaint.
- A7.28 For each provider, we calculate the total increase in operational costs that providers may be expected to incur per year as a result of the proposed change by multiplying the

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<sup>249</sup> Two providers [X] said that the complexity of the case is an important driver of the operational costs of BAU complaints [X].

<sup>250</sup> For example, in response to our clarification questions following our meeting on 23 May 2024 (sent on 28 August 2024), one provider [X] explained that they estimate the costs of dealing with complaints based on the number of staff hours required rather than the number of days the complaint remains open. Hence, looking at the time taken to resolve a complaint is not necessarily informative of the cost to handle because it does not explain how many working hours within those 4 weeks were devoted to active work on the complaint. The same provider also said that there is not a direct link between a complaint's complexity and the resolution times. This is broadly consistent with what other providers told us.

estimated incremental operational cost per additional ADR complaint with the estimated number of additional complaints consumers would take to ADR per year.

### Additional compensation of additional ADR complaints

- A7.29 Complaints that are taken by the consumer to ADR typically obtain higher amounts of compensation than BAU complaints resolved internally by the providers. Hence, if a reduction in the timeframe to 6 weeks led to an increase in ADR referrals and subsequently the number of consumers who choose to take their complaint to the schemes, we would expect providers' customer compensation costs to also increase.
- A7.30 The incremental compensation cost per additional ADR complaint would be the difference between (a) the average compensation paid to an ADR complaint and (b) the average compensation paid to a BAU complaint currently resolved internally by the provider between weeks 6 and 8.<sup>251</sup>
- A7.31 We therefore asked providers to provide data on the average compensation awarded to a customer for (i) a BAU complaint resolved internally; and (ii) an ADR complaint. As for operational costs, we note that not all providers were able to provide the information requested in a consistent format. We outline below the information each provider submitted and how this was used to obtain an estimate of their average compensation awarded.
- A7.32 For each provider, we calculate the total increase in compensation costs that providers may be expected to incur per year as a result of the proposed change by multiplying the estimated incremental compensation cost per additional ADR complaint with the estimated number of additional complaints consumers would take to ADR per year.

### Other costs

- A7.33 As explained above, if the timeframe changed to 6 weeks, all complaints that currently take between 6 weeks and 8 weeks to resolve should receive an ADR letter at 6 weeks. Sending these letters implies additional postage costs for providers. To calculate incremental postage costs we assumed that providers would send 6-week letters with a second-class standard letter stamp, which is currently priced at 85 pence. We note that this is a conservative estimate given that as bulk senders, providers are likely to have access to cheaper alternatives.<sup>252</sup> Moreover, our estimates of these costs are likely overstating the true costs providers may incur as a result of the proposed change as it is likely that a material share of these 6-week ADR letters would be sent electronically.
- A7.34 For each provider, we calculate the total increase in postage costs that providers may be expected to incur per year as a result of the proposed change by multiplying the estimated incremental postage cost per additional ADR complaint with the estimated number of additional complaints providers would refer to ADR for reaching the end of the 6-week threshold per year.

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<sup>251</sup> Two providers [redacted] told us that there can be a link between the length of time a complaint takes to resolve and the extent of compensation given. However, this was not something we heard consistently from all providers. This was in response to questions to [redacted] in a meeting of 21 June 2024 and clarification questions to [redacted] after a meeting, in a letter of 28 August 2024).

<sup>252</sup> Our calculations exclude the deadlock letters sent between weeks 6 and 8. These would now receive an end-of threshold letter.

## Total additional complaints handling costs

A7.35 For each provider we have estimated the yearly increase in complaints handling costs due to the proposed change as the sum of (a) additional operational costs, (b) additional compensation costs and (c) additional postage cost.

## Our estimates for each provider

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### BT Group (including EE and Plusnet)

A7.36 BT Group was not able to provide information on operational costs per BAU complaint but instead provided information on the cost per call to its customer service agents for a BAU. It estimates BAU cost per call to be [redacted].<sup>253</sup>

A7.37 We made a number of assumptions to derive BT Group's BAU complaint costs from the cost per call data. We first considered the data available about BT Group's performance resolving complaints. We used information from a 2023 Ofcom report on Comparing Customer Service: mobile, landline and home broadband,<sup>254</sup> according to which:

- a) 44% of EE's mobile complaints were resolved in the first contact;
- b) 43% of BT's, 39% of EE's and 37% of Plusnet's broadband complaints were resolved in the first contact; and
- c) 44% of BT's, 53% of EE's and 34% of Plusnet's landline complaints were resolved in the first contact.

A7.38 We do not have granular information on the product types associated with complaints received by BT, EE and Plusnet, individually. However, BT Group provided us with complaint volumes for each of Mobile, Home and Plusnet.<sup>255</sup> Therefore, we assumed that 40% of Mobile and Home complaints and 35% of Plusnet's complaints were resolved on first contact with a BT Group customer service agent. For the remaining complaints, we assumed that they involve 3 contact points on average. Using these assumptions and BT Group's cost per call data, we calculated the average cost of a BT Group BAU complaint at [redacted].<sup>256</sup>

A7.39 In response to our statutory information request,<sup>257</sup> BT Group submitted that the average cost per ADR complaint, excluding any customer compensation awarded, is [redacted].

A7.40 According to information provided directly by BT Group, the average compensation paid to consumers for resolved BAU complaints is [redacted], whereas the average compensation per ADR complaint is [redacted].<sup>258</sup>

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<sup>253</sup> BT Group response to the statutory information request dated 3 October 2024.

<sup>254</sup> Ofcom, 2023. [Comparing customer service: mobile, landline and home broadband](#).

<sup>255</sup> BT Group response to the statutory information request dated 3 May 2024.

<sup>256</sup> =

$$\frac{(0.4 \times (\#mobile + \#home \text{ complaints}) + 0.35 \times \#Plusnet \text{ complaints}) \times \pounds 8 + (0.6 \times (\#mobile + \#home \text{ complaints}) + 0.65 \times Plusnet \text{ complaints}) \times \pounds 24}{\#mobile + \#home + \#Plusnet \text{ complaints}}$$

<sup>257</sup> BT Group response to the statutory information request dated 3 October 2024.

<sup>258</sup> BT Group response to the statutory information request dated 3 October 2024.

- A7.41 BT Group further submitted that over the review period (1 January 2023 to 1 January 2024) [X] of the [X] consumers who were referred to ADR chose not to access it.<sup>259</sup> Hence, BT Group's ADR take-up rate is currently [X].
- A7.42 Based on the evidence we received from BT Group in relation to the number of complaints resolved within certain timeframes for the review period,<sup>260</sup> we estimate that if the timeframe were reduced to 6 weeks, an additional [X] complaints per year should receive ADR letters, leading to an increase of in postage costs equal to [X]. Taking those additional yearly ADR letters and multiplying this by BT Group's ADR 'take up rate', suggests that approximately [X] extra customers would actually access ADR. We estimate that this would result in an increase in operational costs of [X] and an additional [X] in compensations awarded to consumers.
- A7.43 BT Group has not provided a specific estimate of any one-off costs or investments it would need to undertake in response to a change in the timeframe, e.g. to update training material or make changes to their software and other systems. However, BT Group submitted that the cost of such changes would be significant.
- A7.44 BT Group also told us that over the last twelve months it has been working to change its complaints handling system, which it hopes will result in more consistency across different types of complaints, and better insight and efficiencies in regard to complaints handling time. It has also been developing a future strategy for complaints handling and looking at how it could use AI.<sup>261</sup> If these actions improve BT Group's performance in dealing with complaints, then if the timeframe were reduced to six weeks, the number of extra customers using ADR and so incremental costs of the policy, would be lower than our estimate.

## Sky

- A7.45 In response to our statutory information request<sup>262</sup>, Sky submitted (i) the total operational costs and (ii) the compensations paid out to customers in 2022 and 2023 for its three dedicated outward facing teams that deal with escalated complaints. Sky noted that none of these teams exclusively deal with BAU complaints, i.e. all its customer facing teams not only deal with complaints but also other sales and service enquiries. It was not possible for it to carve out the costs which are exclusively associated with BAU complaints.
- A7.46 To estimate the respective operational costs, we assumed that between 30% to 40% of these teams' costs related to complaints resolution. On this basis, we found that the average operational cost of a BAU complaint was [X]. Using the same approach, we estimated the average compensation paid out to consumers for BAU complaints was [X].
- A7.47 Sky provided the (i) total operational costs associated with handling ADR complaints after they have been received by CISAS; and (ii) the total compensations awarded to complaints that have been received by CISAS, for 2022 and 2023.<sup>263</sup> Using the information provided and the number of Sky's complaints that CISAS accepted over the same period,<sup>264</sup> we

<sup>259</sup> BT Group response to the statutory information request dated 3 May 2024.

<sup>260</sup> BT Group response to the statutory information request dated 3 May 2024.

<sup>261</sup> BT Group response to the statutory information request dated 3 October 2024.

<sup>262</sup> Sky response to the statutory information request dated 19 September 2024.

<sup>263</sup> Sky response to the statutory information request dated 19 September 2024.

<sup>264</sup> CISAS response to the statutory information request dated 3 May 2024.

estimated Sky's average cost of handling an ADR complaint was [X] and its average compensation per ADR complaint to be [X].

- A7.48 Sky further submitted that over the review period [X] of the [X] consumers who were referred to ADR chose not to access it.<sup>265</sup> Hence, Sky's ADR take-up rate is currently [X].
- A7.49 Based on the evidence received from Sky in relation to historical volumes, we estimate that if the timeframe were reduced to 6 weeks, an additional [X] complaints per year should receive ADR letters,<sup>266</sup> leading to a yearly increase in postage costs equal to [X]. Of those additional complaints sent ADR letters each year, we estimate that approximately [X] consumers would choose to go to ADR. We estimate that this would lead to an increase in Sky's operational costs of [X] and an additional [X] in compensation awarded to consumers.
- A7.50 We do not have any estimates from Sky as regards any one-off costs of a change to the threshold.

## Vodafone

- A7.51 Vodafone provided average operational costs per BAU complaint and per ADR complaint for 2023 and for the period January to August 2024, as information for 2022 was not available.<sup>267</sup> In order to estimate the average operational cost per BAU and per ADR complaint for the period for which we have information on the volume of complaints (i.e. 1 January 2022 to 1 January 2024), we assumed that these costs would be the same as the average of the costs for the period provided by Vodafone. Hence, we estimate the average operational cost per BAU complaint to be [X] and the average operational cost per ADR complaint to be [X].<sup>268</sup>
- A7.52 Moreover, Vodafone submitted that over the review period [X] of the [X] consumers who received ADR letters chose not to access it.<sup>269</sup> Hence, Vodafone's ADR take-up rate is currently [X].
- A7.53 Based on the evidence we received from Vodafone in relation to volumes of complaints,<sup>270</sup> we estimate that if the timeframe were reduced to 6 weeks, an additional [X] complaints per year should receive ADR letters, leading to a yearly increase in postage costs equal to [X]. Of the additional complaints receiving ADR letters per year, approximately [X] consumers would choose to access ADR, leading to an increase of [X] in operational costs and an additional [X] in compensations awarded to consumers.
- A7.54 Vodafone did not provide us with an estimate of the one-off costs of changes to the timeframe for access to ADR, though told us that it would be considering the implications of this.
- A7.55 Vodafone has told us that it has an investment project at planning phase which aims to improve various aspects of consumers' experience with its complaints process. They expect

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<sup>265</sup> Sky response to the statutory information request dated 3 May 2024.

<sup>266</sup> Sky response to the statutory information request dated 3 May 2024.

<sup>267</sup> Vodafone response to the statutory information request dated 19 September 2024.

<sup>268</sup> We note that Vodafone submitted that while they were able to provide an estimate of the operational cost per BAU complaint, in practice this is not how they monitor complaints handling costs internally.

<sup>269</sup> Vodafone response to the statutory information request dated 3 May 2024.

<sup>270</sup> Vodafone response to the statutory information request dated 3 May 2024.

to spend around [£] over two years updating and enhancing their complaints management tool.<sup>271</sup>

- A7.56 We note that if Vodafone's investment project improves consumers' experience of its complaint handling process, this should reduce the length of time that complaints take to be resolved. This would imply that a reduction in the timeframe to 6 weeks may result in lower increases in Vodafone's operational and compensation costs than we have estimated.

### Three

- A7.57 In response to our information request<sup>272</sup>, Three provided the total operational costs of B2C<sup>273</sup> complaints dealt with by its Customer Relations Team ('CRT'), an outsourced team run by a company called [£]. Three's CRT deals with complaints that cannot be resolved by its initial customer facing team, i.e. the CRT is the specialist complaints team for BAU complaints. We assume that all BAU disputes which have been running for at least 6 weeks without being resolved involve the CRT.
- A7.58 Three also provided the total volume of all BAU complaints and the proportion of these dealt with by CRT<sup>274</sup>. We used this data to estimate the volume of BAU complaints dealt with *solely* by the initial customer facing team and the volume dealt with first by the customer facing team and then passed to the CRT.
- A7.59 We divided the total operational costs of the CRT by the total complaints dealt with by the CRT to calculate average (per complaint) CRT operational costs [£]. To calculate the operational costs accounted for by the initial customer facing team, we assumed an hourly staff cost of [£] and that staff spent half an hour on average attempting to resolve the BAU complaint before passing it to the CRT. Adding this cost [£] to the average CRT operational cost, means that the total average operational cost of a BAU complaint was estimated at [£].
- A7.60 Three also provided data about complaints which go to ADR.<sup>275</sup> It provided the total number of its customers' complaints accepted for investigation by the scheme. These complaints were not only for its B2C brand but also related to its Smarty and B2B businesses. Three also provided the total annual staff costs of its [£], which deals with complaints involving ADR<sup>276</sup>. Using the data on total annual staff costs and total complaint numbers, we estimated the average salary cost per accepted complaint as [£] (for the two-year period of 2022 and 2023). Three also provided total and average ADR complaint fees<sup>277</sup>, and we estimated its average ADR complaint fees per accepted complaint as [£] (for the two-year period 2022 and 2023). Adding together average complaint fees and average salary costs gives an estimate of the average operational costs of an ADR complaint [£].

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<sup>271</sup> Vodafone response to the statutory information request dated 19 September 2024.

<sup>272</sup> Three response to the statutory information request dated 19 September 2024.

<sup>273</sup> B2C refers to Three's residential customers operations which is the largest part of Three's business.

<sup>274</sup> Three response to the statutory information request dated 19 September 2024.

<sup>275</sup> Three response to the statutory information request dated 19 September 2024.

<sup>276</sup> Three response to the statutory information request dated 19 September 2024.

<sup>277</sup> Three response to the statutory information request dated 19 September 2024.

- A7.61 Three also provided data about compensation awarded to B2C BAU and ADR complaints<sup>278</sup>. Data on compensation awarded to B2C BAU complaints was only available for five months from 1<sup>st</sup> August 2023 to 1<sup>st</sup> January 2024, so we used this to derive a proxy for the earlier period. The data allowed us to calculate the average amount of compensation awarded to BAU complaints by the CRT (BAU compensation issued by CRT/total BAU CRT complaints) as [X].
- A7.62 To calculate average ADR compensation, we used Three's data on total ADR remediation paid out in 2023 and divided this by the total number of complaints accepted by the scheme [X].
- A7.63 In response to our information request<sup>279</sup>, Three submitted that, over the review period, [X] of the [X] who received an ADR letter, chose not to take up the adjudication option. Hence, Three's take-up rate for ADR was [X].
- A7.64 The evidence we received from Three on volumes of resolved complaints<sup>280</sup>, suggests that if the threshold were reduced to six weeks, this would result in an additional [X] complaints receiving a reference letter to the scheme. This would mean a yearly increase in postage costs of [X]. Of the additional complaints receiving an ADR referral letter, [X] would take up this option, or approximately [X] adjudication complaints per annum. We estimate that each year this would result in an increase in operating costs of around [X] and in compensation paid out of around [X].
- A7.65 As noted above, Three provided a relatively modest estimate of the likely one-off costs of a change in timeframe<sup>281</sup>. These included a breakdown of associated training costs, process updates, automated costs etc, which ranged between [X] for its B2C operations. However, it also made the point that commensurate changes would need to be made for its other operations (i.e. Smarty and B2B).
- A7.66 Three also provided some details of a recent Contact Centre Performance Review and noted that it had a strategy to reduce escalated complaints and improve resolution of complaints.<sup>282</sup> Hence, a reduction in the timeframe would probably result in a lower number of complaints receiving ADR letters and then choosing to use the ADR process, than our estimates above. This would also imply lower increases in operational and compensation costs.

## VMO2

- A7.67 In response to our information request<sup>283</sup>, VMO2 provided two separate estimates for the average operational costs of dealing with a BAU complaint:
- The average operational cost of BAU complaints handled by their external partners is [X].
  - The average operational cost of BAU complaints handled by VMO2 teams is [X].

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<sup>278</sup> Three response to the statutory information request dated 19 September 2024.

<sup>279</sup> Three response to the statutory information request dated 3 May 2024.

<sup>280</sup> Three response to the statutory information request dated 3 May 2024.

<sup>281</sup> Three response to the statutory information request dated 19 September 2024.

<sup>282</sup> Three response to the statutory information request dated 19 September 2024.

<sup>283</sup> VMO2 response to the statutory information request dated 19 September 2024.

- A7.68 VMO2 noted that these costs do not accurately capture technology costs associated with complaints handling as these are not incurred on a per complaint/interaction basis.
- A7.69 For the purposes of this exercise, we assumed that half the complaints are dealt by VMO2's external partner teams and half by VMO2 teams. On this basis, the average operational cost of BAU complaints is [REDACTED].
- A7.70 Regarding the average operational costs of ADR complaints, VMO2 submitted<sup>284</sup> that these vary depending on whether a complaint is settled or adjudicated.
- a) The average operational cost of settled ADR complaints is [REDACTED].
- b) The average operational cost adjudicated ADR complaints is [REDACTED].
- A7.71 Combining the information on the costs of settled and adjudicated ADR complaints with information we obtained from the CO on VMO2's adjudication rate ([REDACTED] for the relevant period)<sup>285</sup>, we calculated VMO2's average operational cost of dealing with an ADR complaint as [REDACTED].<sup>286</sup>
- A7.72 VMO2 submitted<sup>287</sup> that the average compensation per BAU complaint was [REDACTED] but was not able to provide any information on the average compensation awarded to ADR complaints. Compensation for ADR complaints is typically higher than for BAU complaints, but the extent of the difference varies greatly among providers. In the absence of data, we assumed that VMO2's average compensation per ADR complaint is equal to the simple arithmetic average of the ADR compensation provided by other providers, i.e. [REDACTED].
- A7.73 In response to our information request<sup>288</sup>, VMO2 submitted that over the review period, [REDACTED] of the [REDACTED] consumers who received ADR letters chose not to access it. Hence, VMO2's ADR take-up rate is currently [REDACTED].
- A7.74 Based on the evidence we received from VMO2 in relation to historical volumes<sup>289</sup>, we estimated that if the timeframe was reduced to 6 weeks, [REDACTED] additional complaints per year would receive ADR letters, implying a yearly increase in postage costs of approximately [REDACTED]. Of those additional referrals per year, [REDACTED] of the consumers (or [REDACTED]) would choose to access ADR. This would lead to an increase in operational costs of [REDACTED] and an additional [REDACTED] in compensations awarded to consumers per annum.
- A7.75 However, VMO2 resolves a higher percentage of complaints between 6 and 8 weeks than some other providers (around [REDACTED] compared to the simple average for all providers of around 1%). If VMO2 sped up its rate of complaint resolution to match the average across providers, this would reduce the number of additional complaints receiving ADR letters, if the timeframe were lowered to six weeks. Therefore, this would also reduce the number of extra consumers accessing ADR. We have estimated that VMO2's extra operational costs

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<sup>284</sup> VMO2 response to the statutory information request dated 19 September 2024.

<sup>285</sup> CO response to the statutory information request dated 3 May 2024.

<sup>286</sup> This is equal to the weighted average of the average operational cost of dealing with an ADR complaint that is settled and the average operational cost of dealing with an ADR complaint that is adjudicated where the weights are the settlement and adjudication rates.

<sup>287</sup> VMO2 response to the statutory information request dated 19 September 2024.

<sup>288</sup> VMO2 response to the statutory information request dated 3 May 2024.

<sup>289</sup> VMO2 response to the statutory information request dated 3 May 2024.

on this basis would be [£] million per annum and its extra compensation costs would be [£] million per annum.

- A7.76 We note that VMO2 has already committed to an improvement programme for their customer complaints process<sup>290</sup>. The [£] project was established in May 2024 and its aims include reducing the number of complaints (by fixing issues so complaints do not occur in the first place) and speeding up resolution of complaints which do occur. This implies that the number of complaints left unresolved after six weeks should fall and, by implication, the additional operational and compensations costs that VMO2 may face as a result of a reduction in the timeframe to 6 weeks.
- A7.77 VMO2 submitted that as a result of a change in the timeframe they would have to implement a number of changes in their systems, including technology changes, branding & copywriting, staff training, website design changes, etc<sup>291</sup>. [£].

## TalkTalk

- A7.78 In response to an information request, TalkTalk submitted<sup>292</sup> that the average operating cost of dealing with a BAU complaint is [£] and that the average compensation awarded to a BAU complaint is [£].
- A7.79 In relation to ADR complaints, TalkTalk submitted<sup>293</sup> that the average operating cost of dealing with an ADR complaint was [£] and the average compensation awarded to an ADR complaint was [£]. TalkTalk also submitted the total costs and compensations associated with ADR complaints that were settled, as well as ADR complaints that were adjudicated. Using this information we have calculated:<sup>294</sup>
- The average operational cost per settled ADR complaint to be [£].
  - The average compensation per settled ADR complaint to be [£].
  - The average operational cost per adjudicated ADR complaint to be [£].
  - The average compensation per adjudicated ADR complaint to be [£].
- A7.80 To calculate the ADR take-up rate for TalkTalk we used information on the number of complaints from TalkTalk's customers that were accepted by CO<sup>295</sup> over the review period and information provided directly by TalkTalk about the number of complaints that were

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<sup>290</sup> VMO2 response to the statutory information request dated 19 September 2024.

<sup>291</sup> VMO2 response to clarification questions issued on 28 August 2024, in relation to a meeting held with Ofcom on 31 May 2024.

<sup>292</sup> TalkTalk response to the statutory information request dated 19 September 2024.

<sup>293</sup> TalkTalk response to the statutory information request dated 19 September 2024.

<sup>294</sup> More specifically, TalkTalk submitted that over the relevant period the total costs of settled complaints were equal to [£] (made up of [£] in fees and [£] in compensation) and the respective average cost per settled complaint was [£]. Dividing the total cost by the average cost we obtain the number of settled complaints over the period and used it to obtain the average fee and the average compensation per settled complaint respectively. Moreover, TalkTalk submitted that over the relevant period the total costs of adjudicated complaints were equal to [£] (made up of [£] in fees and [£] in compensation) and the respective average cost per settled complaint was [£]. Dividing the total cost by the average cost we obtain the number of adjudicated complaints over the period and used it to obtain the average fee and the average compensation per adjudicated complaint respectively.

<sup>295</sup> CO response to statutory information request dated 3 May 2024.

referred to ADR<sup>296</sup>, either for reaching deadlock or the end of the 8-week period. We have calculated the take-up rate for TalkTalk to be [X].<sup>297</sup>

- A7.81 Based on the evidence we received from TalkTalk in relation to historical complaint volumes<sup>298</sup>, we have estimated that if the timeframe were reduced to 6 weeks, [X] additional complaints per year would receive ADR letters, leading to a yearly increase in postage costs of approximately [X]. Of those additional complaints receiving ADR letters in a year, around [X] of these consumers (or [X]) would access ADR, leading to an increase of [X] in operational costs and an additional [X] in compensations awarded to consumers per annum.<sup>299</sup>
- A7.82 However, TalkTalk resolves a higher percentage of complaints between 6 and 8 weeks than some other providers (around [X], compared to the simple average for all providers of around 1%). If TalkTalk speeds up its rate of complaint resolution to match the average across providers, this would lower the number of additional complaints receiving ADR letters, should the threshold be lowered to 6 weeks. Therefore, this would also reduce the number of extra consumers accessing ADR. We have estimated that TalkTalk's extra operational costs on this basis would be around [X] per annum and extra compensation costs around [X] per annum.
- A7.83 TalkTalk has described to us a number of changes to its complaints procedures, which aim to improve the speed of resolution, customer satisfaction and lead to a reduction in escalation of complaints.<sup>300</sup> Any resulting improvements may therefore be expected to reduce the number of additional ADR letters and ADR complaints that might occur because of a reduction in the timeframe. This would also be likely to reduce the incremental operations and compensation costs below that we have estimated.
- A7.84 TalkTalk explained that it may have to make internal changes to the complaints handling process if the timeframe were reduced and these changes would have an impact on costs.<sup>301</sup> However, TalkTalk was not in a position to provide any further detail on the nature of such changes or their impact on costs.

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<sup>296</sup> TalkTalk response to the statutory information request dated 3 May 2024.

<sup>297</sup> We note that TalkTalk, in response to our statutory information request dated 3 May 2024, provided information on the number of complainants that did not access ADR after being referred to it. The reason why we did not use this information to calculate the take-up rate is that in the meantime we asked the provider to update the data submitted on the number of referrals due to deadlock to exclude No Contact Comms (NCC) letters, i.e. letters sent to customers who the provider cannot reach. In these letters TalkTalk explains to its customers that they can refer the matter to ADR if they so wish. However, these are not deadlock letters according to our definition and are not consistent with what we asked other providers for. In addition, as several NCC letters can be sent to the same customer in relation to the same complaint there were also concerns about double counting and hence we asked TalkTalk to not include them. However, the data on ADR take-up have not been updated to exclude recipients of NCC letters and are hence not comparable.

<sup>298</sup> TalkTalk response to the statutory information request dated 3 May 2024.

<sup>299</sup> To calculate additional costs, we have used the previously calculated average costs and compensations for settled and adjudicated complaints as well as the respective adjudication rates using data provided by CO.

<sup>300</sup> TalkTalk response to the statutory information request dated 19 September 2024.

<sup>301</sup> TalkTalk response to clarification questions issued on 28<sup>th</sup> August 2024 after a meeting with Ofcom on 28 June 2024.

# A8. Consumer research – Jigsaw report

A8.1 A consumer research report, conducted by Jigsaw, into the experiences of consumers throughout the ADR process:

- a) [Summary report](#)
- b) [Full report](#)

# A9. Case review – Lucerna report

A9.1 [A report, conducted by Lucerna, assessing case decisions made by the two schemes.](#)