

Ofcom consultation: automatic compensation

Introduction

MoneySavingExpert.com broadly welcomes the proposals to introduce automatic compensation for broadband and landline service issues in the areas of delayed repair following loss of service, delayed provision and missed appointments. Consumers regularly tell us about these problems, and online research we have conducted shows that there is a clear need to better protect consumers in this area. The proposals could go further, in particular to factor in lateness – as it's crucial that consumers are given an appointment window that will be adhered to.

While the aims of the proposals should benefit consumers overall, we have concerns about several areas in the consultation, in particular the pass-through rate. If as much as 80% of the cost of the additional compensation is ultimately paid for by consumers then this will undermine the intentions of the entire project. Some of the compensation paid must come out of the providers' profits.

It's also important that automatic compensation is a way of making sure more people get the compensation they are owed, but is not a cap on compensation. In some circumstances, the level of automatic compensation offered may not be appropriate, and in these cases the consumer should still be able to complain through the existing channels and receive an amount of compensation that reflects the detriment they have suffered.

Question 1: Do you agree with our framework for assessment?

We are broadly supportive of the work that Ofcom has done in this area, and the proposals in the consultation appear to – on aggregate – be for the benefit of consumers. However while bringing in automatic compensation for the three areas of landline and broadband complaints is positive, the scope of the scheme should go further.

In addition to the three types of automatic compensation proposed, providers should also pay compensation automatically when they are late for appointments. It's crucial that consumers are given an appointment within a short window period and that the providers stick to it. This is in addition to compensation for missed or cancelled appointments.

There has been huge consumer detriment in recent years caused by billing issues, particularly when IT systems have been changed. In these and other instances where firms can objectively identify problems, automatic compensation seems appropriate.

A huge area of concern for consumers is broadband speed – so it is disappointing that automatic compensation was ruled out for consideration in this consultation. We urge Ofcom to commit to revisiting this issue under its automatic compensation scheme soon and in general, it's important

that Ofcom commits to a regular review of the scope of automatic compensation to ensure that it captures issues consumers are experiencing.

Currently, with the onus on consumers to complain, consumers can choose to accept or reject a compensation offer – and take their complaint to ADR/ the ombudsman if they are still unhappy. If consumers are not satisfied with the amount of automatic compensation, they should retain – and be told that they retain – the right to complain to the company, and if necessary take their complaint to ADR.

In instances where consumers have consistently bad service, they must have the right to leave their provider, which could include getting out of a contract penalty-free. Where providers fail to give consumers the service they pay for, and fail to fix problems, consumers must not be tied to them and must be free to switch.

Question 2: Do you agree that in landline and broadband markets consumers are insufficiently protected from poor quality of service and that intervention is required?

Yes. We regularly hear from consumers with a wide range of service problems with their landline and broadband services, and also conducted an online poll on these issues to gather further evidence.

Between 24-26 May 2017, MoneySavingExpert.com conducted two Twitter polls to find out whether people who have complained about their broadband and landline had found the process easy or difficult, and whether it was worth the effort of complaining. The results are striking and show that most consumers who have complained about their broadband or landline service said it was difficult and not worth it, as explained below.

Consumers say complaining about their broadband is difficult and not worth it

1,356 people responded to our poll about broadband service complaints in the last three years¹. 70% said complaining about a broadband problem was not worth it – and an overwhelming 57% of the total said complaining was difficult and not worth it.

30% of respondents thought complaining was worth it – but only 13% of respondents said that complaining about their broadband was easy and worth it.

These results strongly support the case for intervention to better protect broadband consumers from poor quality of service. Complaining should be straight forward and consumers should feel that it is worth the effort of doing so. The full results are as below:

¹ <https://twitter.com/MoneySavingExp/status/867359613913636868>



Consumers say complaining about their landline is difficult and not worth it

499 people responded to our poll about landline service complaints in the last three years². The shape of the results is similar to that of our broadband poll.

68% of respondents who had complained about their landline service said that it was not worth it. Of the total, 61% said it was difficult and not worth it. This is slightly higher than the equivalent result in our broadband poll above, which may be due to the fact that a faulty landline makes it more difficult to even contact the provider in order to raise a complaint.

32% of respondents said that complaining about their landline was worth it – but again, only 13% said it was also easy.



While we agree with, and the evidence supports, the view that consumers aren't currently sufficiently protected, the harm and/or loss suffered will vary on a case by case basis. Automatic compensation can go some way to addressing the consumer detriment – but it must not become a ceiling for compensation. Consumer detriment from the same issues is not uniform and compensation should not be one size fits all.

Question 3: Do you agree that it is appropriate for automatic compensation to be introduced for landline and broadband consumers?

² <https://twitter.com/MoneySavingExp/status/867672071865761792>

Yes, these customers suffer from an array of issues, and as the consultation notes, only a minority receive compensation. This means the vast majority who suffer from a substandard service end up paying the full price regardless.

It's vital that issues are fixed quickly, including that consumers do not need to wait long for an appointment and that appointments are kept.

The automatic compensation proposals would go some way to treating consumers more fairly, but as we explain, more should also be done.

Question 4: Do you agree with our proposal to provide automatic compensation when a loss of service takes more than two full working days to be restored?

Yes. Consumers rely on their landline and broadband services and should not have to pay for a service they don't get. This proposal will also incentivise providers to fix loss of service issues quickly, as the longer the loss of service, the higher the cost to the provider.

Whether the outage is planned or unplanned is irrelevant; the detriment to the consumer is the same regardless of the cause of the fault.

The £10 initial payment followed by £10 per day is more compensation than consumers currently receive (on average), but this should not be regarded as a compensation ceiling. Some consumers will experience severe disruption to their lives through loss of service and will incur consequential losses which could be higher than this (for example, having to switch to mobile signal, loss of work/business, having to work from a different location). Where consumers have lost more than £10 per day due to the outage, they should be able to claim for more compensation to reflect this.

Question 5: Do you agree with our proposal to provide automatic compensation when there are delays in provisioning a landline or fixed broadband service?

Providers must give consumers a reliable date for installation. Consumers make plans on the basis of being able to use the internet from the promised date of provision and therefore experience detriment when provision is delayed.

It's therefore important that providers are incentivised to meet their commitments, and consumers are properly compensated when the service isn't provided on the expected date.

Given the costs that consumers could incur (for example due to needing to use mobile signal) as well as the inconvenience, £6 compensation may still leave some consumers at a net loss. Again, it's essential they can claim for a higher amount of compensation where this is appropriate for their loss or detriment.

Question 6: Do you agree with our proposal to provide automatic compensation when missed appointments take place with less than 24 hours of prior notice?

It's vital that firms do not miss appointments, and automatic compensation for missed appointments will go some way to putting things right with consumers as well as pushing firms to meet their commitments.

The 24 hour notice period is too short and providers should be required to give more than this amount of notice if they need to change an appointment. Giving consumers just one day of notice before altering an appointment will often be too late to cancel annual leave or change working from home arrangements (for example) for another day.

Again, the amount of compensation should not become a ceiling. £30 will be welcome compensation for many consumers who have been inconvenienced and incurred costs through missed appointments, but it would still be far less than the potential costs or lost earnings that could have been incurred. Consumers must be able to claim for more compensation where appropriate.

Questions 7 and 8:

- **Do you agree with our proposals on transparency?**
- **Do you agree with our proposals on the method and timing of payment?**

Yes, consumers should be told about their rights to compensation at the first opportunity, and that it is normally paid by a bill credit. Consumers must be told very plainly that they can be paid the compensation in cash if they choose. When consumers become eligible for automatic compensation they should also be informed and told when it is expected to be paid.

The consultation makes clear that Ofcom doesn't prohibit providers making other offers instead of a monetary payment (such as upgraded services). Consumers should be given a choice about how to accept their compensation – and Ofcom should be alert to any pressure put on consumers to accept lower value alternatives.

Given the objective nature of the detriment covered by the auto-compensation proposals, and the fact that it is generally expected to be paid by bill credit, it seems reasonable that consumers receive it within 30 days.

Question 9: Do you agree with our proposal not to have a payment cap (and our assessment of the reasons for and against it)? - If you consider there should be a payment cap, what should it be and why?

Yes, a payment cap would reduce pressure on providers to fix long running issues. It would also delink compensation from the amount of consumer harm experienced.

Question 10: Do you agree with our proposed exceptions?

The exception, in particular, that compensation isn't due when the provider reasonably believes a customer's notification of a loss of service is frivolous or vexatious should be used only when there is objective evidence to support this belief. In general, the use of exceptions should be closely monitored by Ofcom to ensure they are not misused.

Question 11: Do you agree we should not allow for a blanket exception for force majeure type events?

Yes, the current proposals incentivise providers to ensure their systems are as robust as possible against force majeure type events.

Question 12: Do you agree with our proposal on complaints and disputes?

Compared to the 30 day limit for paying automatic compensation, defaulting to the usual timeframes (including 8 weeks to go to ADR) will be a much slower process.

As the rationale for automatic compensation is that only around 15% of eligible consumers actually get compensated through the existing system, it seems unlikely many of the rejected customers would go on to get compensation in this way – even if it is in fact due.

Ofcom should monitor cases of rejected automatic compensation, to make sure that compensation is not inappropriately rejected.

Question 13: Do you agree with the impacts we describe? Please wherever possible give your reasoning and provide evidence for your views.

An 80% pass through-rate would be far too high

The consultation suggests that an 80% or lower pass through-rate would be acceptable, as this would have a positive net impact on consumers. Given that only around 15% of current instances of loss of service, delayed provisions and missed appointments receive redress, this means in 85% of cases, companies are profiting from keeping compensation customers could claim.

In this context, an 80% pass-through rate is excessively high. If this proportion of the additional compensation bill is simply shared with a firm's customers, the incentive on the firm to actually improve its services would be severely limited. It also means that the cost of the compensation will be paid by consumers themselves, rather than the profits of the businesses which have failed to provide an acceptable service. More of the compensation must come from profits.

It's also concerning that Ofcom has indicated that 80% is an 'acceptable' pass-through rate as this will set a precedent and give providers a level to aim for.

Ofcom must ensure that automatic compensation isn't simply averaged out among providers' customers' bills.

It must be clear that consumers can seek more compensation

As the proposed automatic compensation levels are higher than the *average* currently paid, of course, *on average*, this is a positive move for consumers. But this also means that some automatically compensated consumers might not get as much as they would have done if they had complained under the old system.

If consumers feel that the amount of automatic compensation is not appropriate, it's important that they can still complain and seek higher compensation from their provider. Some consequences of a loss of service, delayed provision or missed appointment could be severe, and the compensation system should be able to reflect this.

Question 14: Do you agree with our provisional conclusions on residential landline and broadband services?

The voluntary scheme proposed by some providers would have provided less protection than the automatic compensation proposals, so it is positive that Ofcom is proposing to take stronger action. As recommended throughout, Ofcom can go further to protect consumers.

Question 15: Do you agree with our proposal of 12 months to implement automatic compensation?

No. The consultation's preferred method of payment is bill credit, with the rationale including that providers said this method is quick and cost-effective. Given the simpler nature of this method of refund, a 12 month lead in period is excessive, undermines the good consumer intentions in the proposals, and should be shortened.

Question 16: Do you agree with our proposal to monitor the impact of automatic compensation?

It's vital that Ofcom has a clear view of how this new compensation regime works in practice, so monitoring is key.

In addition to the information in the proposed template, providers should also be required to submit data about any automatic compensation which has been rejected. This would allow Ofcom to potentially identify any issues with over-zealous rejection rates.

In addition, this information should be made publicly available. This would increase public awareness of the scheme, and the transparency would add pressure on providers to properly implement the rules, as well as incentivise them to address the underlying causes of complaints.

Question 18: Do you agree with our provisional conclusions not to introduce automatic compensation for delayed repair of mobile loss of service?

In principle, and if practical, it could be positive for consumers to also receive automatic compensation for loss of mobile service. Due to the practical issues identified in the consultation, we welcome Ofcom's plans to better understand mobile networks' performance, and gather better data on mobile outages. This is important work, but seems to remain an 'intention' in the consultation. Firmer plans in this area are needed.

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