

Schedule

Essential Condition 1

ESSENTIAL CONDITION 1

1.1. Application, Definitions and Interpretation

E 1.1.1	This Essential Condition shall apply to <u>relevant postal operators</u> .
E 1.1.2	<p>In this Essential Condition—</p> <p>(a) “access operator” means a <u>postal operator</u> that is party to a <u>USP Access Agreement</u> with the <u>universal service provider</u>;</p> <p>(b) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(c) “closed user group network” means a system providing for the conveyance of <u>postal packets</u> (and the incidental services of receiving, collecting, sorting and delivering <u>postal packets</u>) between:</p> <ul style="list-style-type: none">i. the premises of one firm and another firm;ii. a government department and a third party firm;iii. branches and/or units in the same firm; oriv. government departments, <p>where both the sender and the recipient of the <u>postal packets</u> have entered into specific arrangements with the <u>postal operator</u> for the conveyance of <u>postal packets</u> to or from other members of that system, which, for the avoidance of doubt, includes a document exchange;</p> <p>(d) “Consumer Advocacy Bodies” means Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;</p> <p>(e) “damage” means, in relation to a <u>relevant postal packet</u>, any physical damage to a <u>relevant postal packet</u> (other than damage caused by interference or accidental damage) occurring after the time of acceptance of that <u>relevant postal packet</u> by the <u>relevant postal operator</u> and before its delivery to the person to whom or at the premises to which it is addressed;</p> <p>(f) “DUSP condition” means a designated USP condition imposed under s.36 of the Act;</p> <p>(g) “express and secured service” means a service involving the conveyance of <u>postal packets</u> and any incidental services of collecting, sorting and delivering those <u>postal packets</u> which have at least one of the following features:</p> <ul style="list-style-type: none">i. a guarantee for delivery by a certain time or date;ii. a facility enabling the sender and the recipient to monitor the progress of a postal packet through the postal operator’s

network, including confirmation of delivery;

- (h) “**interference**” means interference with a relevant postal packet contrary to sections 83 or 84 of the Postal Services Act 2000;
- (i) “**intermediary postal operator**” means an access operator or any other postal operator that hands over postal packets to another postal operator (including but not limited to the universal service provider) for subsequent conveyance and delivery to the intended recipients of the postal packets;
- (j) “**loss**” means the physical loss of a relevant postal packet, other than as a result of:
- i. having been stolen,
 - ii. being incorrectly addressed,
- at any time after the acceptance of that relevant postal packet by the relevant postal operator and before its delivery to the person to whom or at the premises to which it is addressed. Save where the context otherwise indicates, loss includes a failure by the relevant postal operator to deliver that relevant postal packet (i) within 15 working days of its due date of delivery or (ii) within such lesser period of time of its due date of delivery as the relevant postal operator may adopt for its own operational or contractual purposes to treat the relevant postal packet as lost);
- (k) “**Mail Integrity Objectives**” has the meaning given in E1.2.1;
- (l) “**public holiday**” means Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom, and in relation to a particular territory, any day in relation to which OFCOM has by direction stated that exceptional circumstances require it to be treated as a public holiday;
- (m) “**relevant employees**” means permanent, temporary, casual or part time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling relevant postal packets;
- (n) “**relevant letter**” means a postal packet that is up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g;
- (o) “**relevant letters postal service**” means a service of conveying relevant letters from one place to another by post and the incidental services of receiving, collecting, sorting and delivering relevant letters, excluding:
- i. services for which the postal operator has not received any payment, reward, profit or advantage with respect to the conveyance of the relevant letters;
 - ii. services provided by a charity which comprise solely the collection, conveyance and delivery of Christmas cards;
 - iii. express and secured services;

	<p>iv. services consisting of the conveyance of <u>relevant letters</u> within a <u>closed user group network</u>;</p> <p>v. services provided while acting in the capacity of an <u>intermediary postal operator</u>; and</p> <p>vi. services consisting of conveying <u>relevant letters</u>, which have been sent from a location outside of the United Kingdom and which are addressed for delivery to a location outside of the United Kingdom, out of the United Kingdom;</p> <p>(p) “relevant period” means any year beginning on 1 April and ending on 31 March;</p> <p>(q) “relevant postal operator” means a <u>postal operator</u> that provides a <u>relevant postal service</u>;</p> <p>(r) “relevant postal packet” means a <u>postal packet</u> which is conveyed in the provision of a <u>relevant postal service</u>;</p> <p>(s) “relevant postal service” means a <u>relevant letters postal service</u> or an <u>untracked DUSP parcel service</u>;</p> <p>(t) “stolen” means misappropriated contrary to the Theft Act 1968;</p> <p>(u) “substantially delayed” means that a <u>relevant postal packet</u> is not delivered (i) within 15 <u>working days</u> of its due date of delivery or (ii) within such lesser period of time of its due date of delivery as the <u>relevant postal operator</u> may adopt for its own operational or contractual purposes to treat the <u>relevant postal packet</u> as lost, but is subsequently delivered after that period of time has elapsed;</p> <p>(v) “theft” means misappropriation contrary to the Theft Act 1968;</p> <p>(w) “untracked DUSP parcel service” means a service of conveying <u>postal packets</u> which exceed the dimensions and/or weight of a <u>relevant letter</u> from one place to another by post (and the incidental services of receiving, collecting, sorting and delivering those <u>postal packets</u>), which:</p> <p>i. the <u>universal service provider</u> is required to provide under a <u>DUSP condition</u>; and</p> <p>ii. is not an <u>express or secured service</u>;</p> <p>(x) “USP Access Agreement” means an agreement under which the <u>universal service provider</u> provides access to its <u>postal network</u> in accordance with requirements set out in a condition imposed under section 38 of the Act;</p> <p>(y) “working day” means any day which is not a Sunday or a <u>public holiday</u>.</p>
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E 1.1.3	<p>For the purpose of interpreting this Essential Condition—</p> <p>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this Essential Condition shall be construed accordingly; and</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this Essential Condition were an Act of Parliament.</p>
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1.2. Obligation to protect the integrity of mail

E 1.2.1	<p>A <u>relevant postal operator</u> shall protect the integrity of mail by:</p> <p>(a) taking all reasonable steps to minimise the exposure of <u>relevant postal packets</u> to the risk of <u>loss, theft, damage</u> and/or <u>interference</u>; and</p> <p>(b) taking all reasonable steps to address mail integrity issues promptly when they arise (the “Mail Integrity Objectives”).</p>
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1.3 Obligation to implement and adhere to appropriate policies and procedures

E 1.3.1	<p>For the purpose of achieving compliance with the <u>Mail Integrity Objectives</u>, a <u>relevant postal operator</u> shall establish, maintain and adhere to policies and procedures which satisfy the requirements of E 1.3.2 to E 1.3.5.</p> <p>In designing the relevant policies and procedures, a <u>relevant postal operator</u> shall have regard to the need to ensure that they are proportionate to the scale of the <u>relevant postal services</u> undertaken by the <u>relevant postal operator</u> and the level of risk to mail integrity in relation to the activities concerned.</p>
E 1.3.2	<p>Recruitment of <u>relevant employees</u>: a <u>relevant postal operator</u> shall establish, maintain and adhere to recruitment policies in relation to the employment or use of <u>relevant employees</u>, and any other temporary, casual or part time employees or workers (including those under a contract for service) who are reasonably likely to have access to <u>relevant postal packets</u> in the course of their work, that are designed to facilitate the achievement of the <u>Mail Integrity Objectives</u>.</p>
E 1.3.3	<p>Training <u>relevant employees</u>: a <u>relevant postal operator</u> shall establish, maintain and adhere to a training policy that provides for <u>relevant employees</u> to receive initial and ongoing training so as to facilitate achievement of the <u>Mail Integrity Objectives</u>. This must cover:</p> <p>(a) ensuring <u>relevant employees</u> are informed of the provisions of sections 83 and 84 of the Postal Services Act 2000 and made aware of the seriousness of the offences detailed in those</p>

	<p>sections; and</p> <p>(b) making <u>relevant employees</u> aware of the standards of conduct in relation to facilitating achievement of the <u>Mail Integrity Objectives</u> the <u>relevant postal operator</u> requires <u>relevant employees</u> to meet.</p>
E 1.3.4	<p>Disciplinary Procedures: a <u>relevant postal operator</u> shall establish, maintain and adhere to a disciplinary policy in relation to the treatment of <u>relevant employees</u> who fail to meet the standards of conduct expected of them in relation to mail integrity.</p>
E 1.3.5	<p>Security of Mail: a <u>relevant postal operator</u> shall establish, maintain and adhere to policies and procedures for ensuring the secure conveyance, receipt, collection, sortation, delivery or other handling of <u>relevant postal packets</u>, which shall in particular relate to:</p> <p>(a) the security of relevant premises;</p> <p>(b) the use of vehicles and equipment in the collection, conveyance or delivery of <u>relevant postal packets</u>; and</p> <p>(c) ensuring appropriate processes are followed by <u>relevant employees</u>, and any other permanent, temporary, casual or part time employees or workers (including those under a contract for service) who are reasonably likely to have access to <u>relevant postal packets</u> in the course of their work, in order to safeguard the security of <u>relevant postal packets</u>.</p>
E 1.3.6	<p>A <u>relevant postal operator</u> shall comply with any direction made by <u>OFCOM</u> requiring the <u>relevant postal operator</u> to adopt such policies or procedures or take such steps as <u>OFCOM</u> considers necessary for the purposes of facilitating the achievement of the <u>Mail Integrity Objectives</u>.</p>

1.4 Obligation to monitor and review relevant policies and procedures

E 1.4.1	<p>A <u>relevant postal operator</u> shall monitor, regularly review and where necessary update or amend the policies and procedures it has put in place in accordance with E 1.3.1 to ensure that they remain appropriate to facilitate the achievement of the <u>Mail Integrity Objectives</u>.</p>
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1.5 Obligation to record and report incidents

E 1.5.1	<p>A <u>relevant postal operator</u> shall record all incidents of <u>loss</u> or <u>theft</u> of, <u>damage</u> to, or <u>interference</u> with <u>relevant postal packets</u> as soon as reasonably practicable after becoming aware of the occurrence of such incident (or where details of the specific incidents are not known, shall record its best estimates of such incidents). Such records shall be retained for a minimum of three years from the date on which the incident occurred and shall include:</p> <p>(a) the date, time and place of the incident (or where not known precisely, any information that the <u>relevant postal operator</u> has that indicates the approximate date, time or place of the incident);</p>
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	<p>(b) the number of (or where the precise number is not known, a reasonable estimate of the number of and details of the methodology used for the purposes of preparing the estimates of) <u>relevant postal packets</u> involved in the incident;</p> <p>(c) any other particulars relating to the incident which it would be reasonable to record, including a concise explanation of the factual circumstances of the incident and whether the incident forms part of a discernible trend; and</p> <p>(d) any actions taken as a result of the incident.</p>
E 1.5.2	A <u>relevant postal operator</u> shall provide copies of any records made for the purposes of E 1.5.1 as soon as reasonably practicable in response to a request by <u>OFCOM</u> for such records.
E 1.5.3	<p>A <u>relevant postal operator</u> which handled more than 250,000 <u>relevant postal packets</u> in the most recent completed <u>relevant period</u> shall submit to <u>OFCOM</u> and the <u>Consumer Advocacy Bodies</u> reports within three months of the end of the <u>relevant period</u> regarding all incidents of <u>loss</u> or <u>theft</u> of, <u>damage</u> to, or <u>interference</u> with <u>relevant postal packets</u>. The reports shall include:</p> <p>(a) the total number of incidents that occurred and the total number of <u>relevant postal packets</u> involved in all incidents during the <u>relevant period</u> (or where details of the specific incidents are not known, its best estimates of such incidents);</p> <p>(b) for each incident identified in the <u>relevant period</u>, the corresponding number of (or where precise numbers are not known, reasonable estimates of the numbers of and details of the methodology used for the purposes of preparing the estimates of) <u>relevant postal packets</u> involved in the incident broken down according to whether the <u>relevant postal packets</u> involved in the incident were <u>lost</u>, <u>stolen</u>, <u>damaged</u>, or <u>interfered</u> with;</p> <p>(c) the total number of any prosecutions in relation to offences in connection with mail integrity which that <u>relevant postal operator</u> has instigated in the <u>relevant period</u>; and</p> <p>(d) a statement of the measures that the <u>relevant postal operator</u> intends to take to remedy any failures or patterns of failure to achieve the <u>Mail Integrity Objectives</u> and to reduce the numbers of <u>relevant postal packets</u> <u>lost</u>, <u>stolen</u>, <u>damaged</u> or <u>interfered</u> with.</p> <p>For the purposes of these reports, the references to “<u>lost</u>” or “<u>loss</u>” exclude items that are <u>substantially delayed</u>. Such items are to be reported in these reports as “<u>substantially delayed</u>”.</p>

1.6 Franchisees, agents and sub-contractors

E 1.6.1	<p>A <u>relevant postal operator</u> shall ensure that, so far as is reasonably practicable, all of:</p> <p>(a) its franchisees, agents or sub-contractors (if any) who are involved in the conveyance, receipt, collection, sortation, delivery or handling of <u>relevant postal packets</u>, comply with this Condition E1</p>
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	<p>as if this Condition E1 applied to the franchisee, agent or sub-contractor; and</p> <p>(b) its agents or sub-contractors (if any) who are responsible for providing <u>relevant employees</u> to work for the <u>relevant postal operator</u>, comply with this Condition E1 as if this Condition E1 applied to such agent or sub-contractor.</p>
E 1.6.2	<p>Where the franchisee, agent or sub-contractor is a <u>relevant postal operator</u>, it shall be sufficient for the <u>relevant postal operator</u> which lets the franchise, appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of this Condition E1 to that <u>relevant postal operator</u> in fulfilment of its obligations under this Condition E1 in respect of <u>relevant postal packets</u> from the point of physical handover of such <u>relevant postal packets</u> and for so long as the <u>relevant postal packets</u> remain in the physical possession of that franchisee, agent or sub-contractor.</p>

This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

Defined term	Section
<i>OFCOM</i>	<i>s.90</i>
<i>postal operator</i>	<i>s.27(3)</i>
<i>postal network</i>	<i>s.38(3)</i>
<i>postal packet</i>	<i>s.27(2)</i>
<i>postal services</i>	<i>s.27(1)</i>
<i>universal service provider</i>	<i>s.65(1) and Schedule 9 paragraph 3(3)</i>