

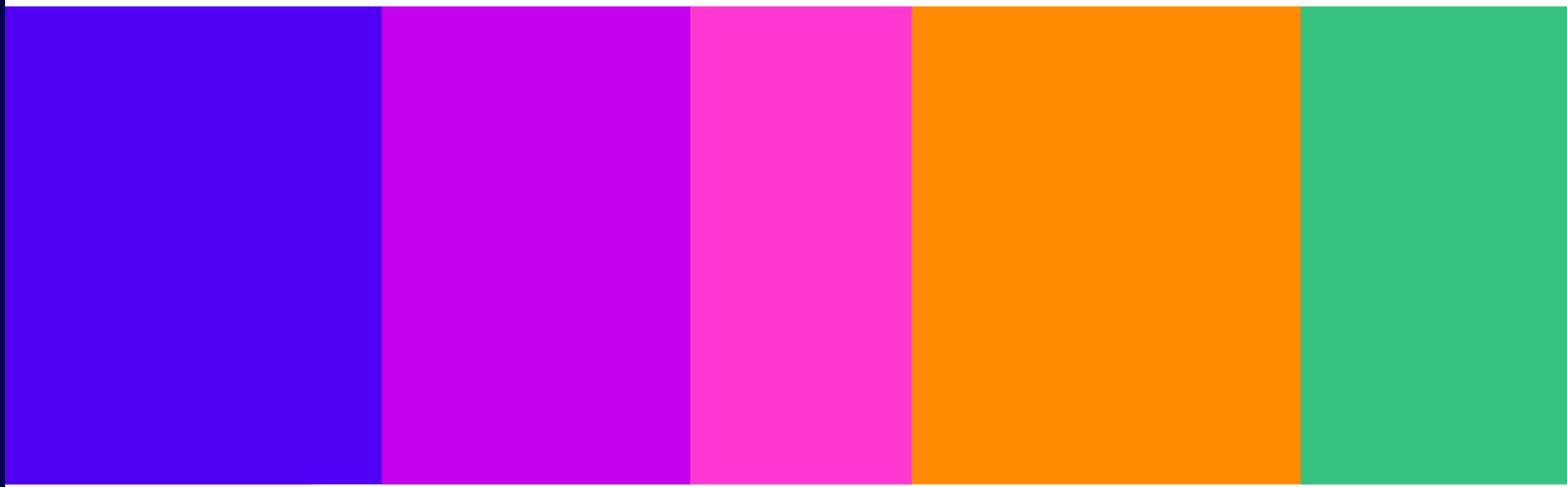
Decision finding Royal Mail contravened its Quality of Service performance targets in 2023/24 and imposing a financial penalty

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Final Decision

Case reference: CW/01285/05/24

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Contents

Section

| | |
|--|----|
| 1. Overview..... | 3 |
| 2. Introduction..... | 5 |
| 3. Regulatory framework in relation to Royal Mail’s Quality of Service obligations | 6 |
| 4. Our assessment of Royal Mail’s performance and findings..... | 11 |
| 5. Consideration of financial penalty | 19 |

Annex

| | |
|--|----|
| A1. Excerpts from DUSP Condition 1..... | 29 |
| A2. First Class standard..... | 31 |
| A3. Issues in the operation of delivery offices | 33 |
| A4. Notifications issued during the investigation..... | 36 |

1. Overview

- 1.1 Royal Mail is required by regulation imposed by Ofcom to achieve certain performance targets, called Quality of Service (QoS) targets, in the delivery of universal service products. This document sets out our decision that Royal Mail failed to achieve two of these targets in 2023/24 - the First and Second Class national performance targets - which are intended to ensure that people receive the services they pay for. In addition, it sets out that we are imposing a financial penalty of £10.5 million on Royal Mail for the First and Second Class failures.
- 1.2 While there were welcome improvements in Royal Mail's performance between January and March 2024 (which we refer to as Q4 of the relevant period), this was not enough to prevent a significant breach. Ultimately, this meant that consumers were left with an unreliable and poor quality service that saw little improvement on the previous year's reported performance – a year which was marked by substantial disruption including 18 days of strike action – and for which, after accounting for that disruption, we fined Royal Mail £5.6 million.

The QoS targets and Royal Mail's performance in 2023/24

- The First Class target requires at least 93% of First Class mail to be delivered within one working day of collection. In 2023/24 Royal Mail achieved **74.7%**.
- The Second Class target requires at least 98.5% of Second Class mail to be delivered within three working days of collection. In 2023/24 Royal Mail achieved **92.7%**.

In considering whether or not a breach is likely to have occurred, Ofcom has discretion to grant an allowance for exceptional events during the year that have had a quantifiable impact on performance. If we agree that exceptional events have occurred, we can uplift Royal Mail's reported measure of performance to account for the exceptional events. Our consideration of whether there has been a potential breach will then be made on the uplifted measure.

Royal Mail contravened its obligations

For the 2023/24 period, Royal Mail submitted that its QoS results were mainly impacted by:

- its fragile financial position; and
- the delay to the Communication Workers Union (CWU) ballot on the agreement that followed the previous year's industrial action.

In Royal Mail's view, these challenges meant it was unable to improve its QoS performance as soon as it would have liked. Royal Mail did not ask Ofcom to grant an allowance for either of these events, nor was it able to quantify their impact on QoS performance. Our decision is that we do not consider it appropriate to uplift Royal Mail's measure of performance for either of these challenges.

We accept that the delay to the ballot had some, albeit limited, impact on Royal Mail's performance and we take this into account in our penalty. While we do not consider that Royal Mail's financial position in the 2023/24 period can be a justification for its failure to provide expected levels of service, we do recognise that the company is facing financial

challenges. We have, consistent with our normal penalty setting practice, taken this into account when determining the appropriate and proportionate penalty in this case.

Separate to these challenges, Royal Mail also stated its belief that the current targets are unachievable at a reasonable or sustainable cost and noted Ofcom's current work on considering reform of the universal service obligation (USO).

We acknowledge that we are currently considering how the USO requirements may need to be reformed to better reflect reasonable user needs, and to ensure that the USO can continue to be affordable and sustainable in the future. This includes consideration of whether any associated changes to the QoS targets might be needed. Any such changes will, however, be subject to public consultation and we will take into account the views of all respondents and stakeholders before any decision is made.

Accordingly, the relevant regulatory rules for this investigation are those currently set out in the Designated Universal Service Provider (DUSP) conditions which were in force during the 2023/24 regulatory period. We have nonetheless taken into account the scope for potential changes to the USO requirements, and particularly the QoS targets, when considering the proportionality of the penalty.

Taking all of this into account we have concluded that Royal Mail contravened its obligations.

Ofcom has imposed a penalty of £10.5 million on Royal Mail

Our objective in imposing a financial penalty in a case such as this is to provide Royal Mail with a clear incentive to improve performance. At a minimum we expect to see a clear, credible and publicly communicated plan setting out how Royal Mail will improve which, in practice, delivers meaningful, sustainable and continuous improvements for consumers.

It is our finding that the steps Royal Mail took over the 2023/24 period were insufficient or ineffective in terms of their scope, timing and/or implementation which meant that we did not see meaningful improvements over the year. This resulted in considerable harm which is likely to have impacted millions of customers who did not get the service they expected and that they had paid for. That also means that, in effect, Royal Mail received millions of pounds in revenue for a service it simply did not provide.

In light of the specific circumstances and having considered the relevant factors set out in our penalty guidelines in the round, we have decided to impose a penalty of **£10.5 million** on Royal Mail for its failure to meet its First and Second Class national performance targets. This includes a 30% discount from the penalty Ofcom would otherwise have imposed. The discount reflects Royal Mail's admissions of liability and its agreement to settle which has allowed Ofcom to bring this matter to a close more swiftly. We consider that this penalty is appropriate and proportionate to the seriousness of the contravention and to incentivise Royal Mail to take sufficient and effective steps to improve its QoS performance.

The overview section in this document is a simplified high-level summary only. The decision we have taken, and our reasoning are set out in the full document.

2. Introduction

This decision (the “Decision”) is addressed to Royal Mail Group Limited (“Royal Mail”), whose registered company number is 04138203. Royal Mail’s registered office is 185 Farringdon Road, London, United Kingdom, EC1A 1AA.

Our investigation

- 2.1 On 24 May 2024, Royal Mail announced and published¹ its performance against its QoS targets. On the same day, Ofcom opened an investigation² to examine the failure of the targets and wrote to Royal Mail offering it the opportunity to provide written representations (its “Submission”) to explain why it failed to meet the following targets:
- First Class national performance target; and
 - Second Class national performance target.
- 2.2 Royal Mail responded on 18 July 2024. We then issued a formal notice on 23 September 2024 under Section 55 of, and Schedule 8 to, the Postal Services Act 2011 (the “Act”) requiring Royal Mail to confirm the accuracy of its Submission. Royal Mail responded on 30 September 2024.
- 2.3 The evidence set out in this document draws on Royal Mail’s Submission.

Structure of this document

- 2.4 The rest of this document is structured as follows:
- a) In **Section 3**, we set out the legislation, regulation and European Standard relevant to this investigation. We also explain how Royal Mail monitors its QoS performance.
 - b) In **Section 4**, we consider Royal Mail’s QoS performance in 2023/24 and our reasons for determining that it contravened its obligations.
 - c) In **Section 5**, we set out our decision regarding a financial penalty for this contravention.
- 2.5 Annex A1 sets out relevant parts of Designated Universal Service Provider (DUSP) Condition 1 which contains the QoS requirements. Annex A2 provides details of the First Class Standard, referred to in paragraph 3.11. Annex A3 details our full findings on the steps Royal Mail has taken to address our concerns about oversight of local delivery offices, both before and after our 2022/23 decision. Annex A4 details the Notifications issued as part of this investigation.

¹ Royal Mail, 24 May 2024, [Quarterly Quality of Service & Complaints Report](#). This was in accordance with its obligations under DUSP 1.10.4.

² Ofcom, 24 May 2024, [Investigation into Royal Mail’s quality of service performance in 2023/24 - Ofcom](#)

3. Regulatory framework in relation to Royal Mail's Quality of Service obligations

3.1 In this section, we explain the regulatory rules, legislation, and European Standard relevant to this investigation. We also explain how Royal Mail monitors its performance against the QoS targets.

Regulatory framework

3.2 Royal Mail is required by regulation imposed by Ofcom to achieve certain QoS targets in the delivery of particular universal service products. It is also required to monitor, and publish, for each quarter and for each financial year, its performance against the targets. If Royal Mail fails to meet the targets, Ofcom has powers to take enforcement action against it.

Overview of the QoS regulation

3.3 On 27 March 2012, we published a statement nominating Royal Mail as the DUSP.³ We also imposed DUSP conditions in accordance with section 36 of, and paragraph 3 of Schedule 6 to, the Postal Services Act 2011 (the "Act").⁴

3.4 Relevant parts of DUSP Condition 1 that set out the Universal Service products that Royal Mail is required to provide and some of the key standards to be met can be found in Annex A1.⁵

Ofcom's investigatory and enforcement powers

3.5 Ofcom's powers to take enforcement action against Royal Mail in relation to its compliance with the QoS performance targets imposed on it are set out in Schedule 7 to the Act.

3.6 Under section 54 of, and paragraph 2 of Schedule 7 to, the Act, if Ofcom determines that there are reasonable grounds for believing that Royal Mail is contravening or has contravened a regulatory requirement, Ofcom may give Royal Mail a notification. The notification must:

- a) set out the determination made by Ofcom;
- b) specify the requirement and contravention in respect of which that determination has been made; and
- c) specify the period during which Royal Mail has an opportunity to make representations about the notified determination.

³ Ofcom, 27 March 2012, [Securing the Universal Postal Service statement](#)

⁴ The DUSP conditions can be viewed on [Ofcom's website](#).

⁵ Ofcom, 1 March 2017, [DUSP Condition 1 – Services, access points, performance targets, notification and publication and contingency planning](#)

- 3.7 Following the issue of such a notification, there are a number of further enforcement actions that Ofcom may consider taking. However, as this case relates to Royal Mail’s performance during 2023/24, some actions, including the imposition of an enforcement notification together with an Ofcom direction setting out steps to be taken to remedy the breach (provided for under paragraph 5 of Schedule 7 to the Act), are not applicable since it would not be possible for Royal Mail to remedy any breach on a retrospective basis.
- 3.8 If following a notification under paragraph 2 of Schedule 7 to the Act, Ofcom is satisfied that Royal Mail has, in one or more of the notified respects, been in contravention of the notified regulatory requirement, Ofcom may impose a financial penalty on Royal Mail in accordance with paragraph 6 of Schedule 7 to the Act. The amount of any penalty should be appropriate and proportionate to the contravention(s) for which it is imposed and may not exceed 10% of the turnover of Royal Mail’s postal services business for the relevant period. In determining the amount of any financial penalty, Ofcom is also required to have regard to its guidelines on financial penalties.⁶

Ofcom’s approach to the enforcement of Royal Mail’s QoS targets

- 3.9 In this section, we set out Ofcom’s approach to the enforcement of Royal Mail’s QoS targets. In carrying out such enforcement action, we have had regard to the European Standard which sets out how QoS should be measured. It also identifies circumstances, known as *force majeure* events, the impact of which may be removed from the results of that monitoring, which has the effect of uplifting overall performance.

Measuring QoS

- 3.10 The European Committee for Standardization (CEN) is one of the European Standardization Organisations that has official recognition as being responsible for developing and defining voluntary standards at a European level.
- 3.11 CEN has approved the “First Class standard”⁷ – which measures the QoS of single piece priority or First Class mail – and the “Second Class standard”⁸ – which measures the QoS of single piece non-priority Second Class mail. These were implemented in the UK by the British Standards Institute.⁹ The standards guide postal operators in measuring the QoS of mail falling within the scope of the USO. It does this by providing a detailed methodology for estimating the QoS – in relation to journey times – of these mail services.
- 3.12 As noted in A1.6, DUSP condition 1.9.2 requires Royal Mail to monitor, or to procure the monitoring of, its performance in relation to the applicable QoS targets using an appropriate testing methodology. Royal Mail complies with this requirement by way of a series of surveys involving test mail items.

⁶ Ofcom, 14 September 2017, [Penalty Guidelines: Section 392 Communications Act 2003](#). See also Section 392 of the [Communications Act 2003](#).

⁷ European Standard EN 13850:2020

⁸ European Standard EN 14508:2016

⁹ This is the UK’s national standards body.

- 3.13 These are designed by Royal Mail in compliance with the First Class and Second Class standards and are carried out by a market research agency.¹⁰ For the purpose of the 2023/24 QoS survey, the market research agency was Spectos. To carry out the survey, Spectos recruited a panel of private individuals and businesses across the UK who were directed by Spectos to post items of test mail to each other. Panellists recorded the dates on which test items were posted and the dates on which test items were delivered. The test items were not identifiable to Royal Mail and the participants in the survey were anonymous. This means that where there is an event that impacts QoS, the affected samples can typically be identified and removed, leaving a statistically robust result.
- 3.14 The delivery performance of the test items can then be used to estimate the performance across all mailed items. In particular, the standards provide a statistical methodology which enables Royal Mail to calculate a margin of error (known as the “*confidence interval*”) around the performance of the sample items within which there can be confidence Royal Mail’s overall performance lies.¹¹
- 3.15 This results in a range within which there is a 95% probability that the true performance falls, although it is not possible to determine where in that range Royal Mail’s actual performance lies. The performance figures reported by Royal Mail are the middle of the confidence interval. The range or degree of the confidence interval is determined by (i) the measured QoS achieved for the sample; and (ii) the sample size.
- 3.16 Since imposing the DUSP condition in 2012, Ofcom has acknowledged the confidence interval associated with Royal Mail’s QoS performance figures. This means that where Royal Mail’s performance – adjusted to the high point of the confidence interval – meets the relevant target, Ofcom has not intervened or investigated further. This is because, in these circumstances, “*it could not be ascertained whether Royal Mail had missed the target or not.*”¹²
- 3.17 To further ensure the robustness of the QoS performance results reported by Royal Mail these are subject to review by an independent auditor.¹³ In the case of the First Class and Second Class national performance targets, the auditor is appointed by, and reports directly to, Ofcom.

¹⁰ It has come to our attention that the figures reported by Royal Mail may slightly under-report their actual performance against our DUSP conditions for the First and Second Class national performance targets. This is because Royal Mail’s results are calculated on the basis of a Monday to Saturday working week for delivery, collection and processing for both letters and parcels, in accordance with the First and Second Class standard. However, under our DUSP conditions, First and Second Class parcels are required to be processed Monday to Saturday (all of these days are included with the definition of “working day” – see DUSP 1.1.2(jj)), but are only required to be delivered and collected Monday to Friday (see DUSP 1.4.2 and DUSP 1.5.1). Having considered the very small relative volumes of samples that could be affected by this, we consider that the impact of this issue is negligible in the context of our decision.

¹¹ European Standard EN 13850:2020, section A.5 & EN 14508:2016 at 7.2

¹² Ofcom, [Annual monitoring update on the postal market – Financial year 2014-15](#), para. 3.35
Ofcom, [Decision to conclude investigation of Royal Mail Group Limited](#), para 3.27 and Table 2.

¹³ Section 37 of the Act establishes that the USP conditions should include a requirement for the publication by the USP of “an independently audited performance report”. This requirement is set out in DUSP 1.9.3.

Exceptional events for which an additional allowance may be granted

- 3.18 In this section we explain the analytical framework we generally apply in our QoS investigations to determine whether Royal Mail failed to comply with its obligations to meet the QoS performance targets.
- 3.19 The objective of Royal Mail's QoS performance targets is to ensure that customers receive an adequate level of service. These targets are made meaningful and achievable by being set below 100%, in recognition of the fact that certain events will invariably affect delivery performance and may be beyond Royal Mail's reasonable control. In effect, this means there is a built-in allowance for the type of disruption and operational difficulties Royal Mail faces in a typical year.
- 3.20 The allowance cannot, and is not intended to, account for all types of events that may affect Royal Mail's delivery performance. For this reason, Ofcom has further discretion to determine that a particular event should be considered exceptional and beyond the scope which this allowance is intended to cover. Should Ofcom determine that an event is exceptional, it will then consider whether to grant an additional allowance for that event, on top of the allowance already built into the targets. The assessment of whether an event is exceptional is carried out on a case-by-case basis.
- 3.21 In exercising our discretion, we have regard to the First Class standard (see Annex A2), which sets out certain criteria for an event to be regarded as *force majeure*.¹⁴ We also consider factors such as the extent to which an event was caused by Royal Mail; whether the event was rare, unprecedented, unforeseeable, unavoidable; and whether it is the type of event or level of impact which we consider the allowance built into Royal Mail's targets is intended to cover.
- 3.22 Where we determine that an event is exceptional, we then consider whether and how we should take that into account in our assessment of Royal Mail's performance. In doing so, we would consider whether the event had a quantifiable impact on Royal Mail's QoS, and any steps taken by Royal Mail to mitigate the impact of the event on its QoS.
- 3.23 Where we decide to grant an additional allowance for what we have determined is an exceptional event, we typically adjust the measure of Royal Mail's performance to account for the impact of the event in question. Previous decisions to make quantitative adjustments for an event we deemed to be exceptional have been because the QoS data associated with the event could be identified and, where possible, Royal Mail took steps to mitigate the impact of the event on its QoS.
- 3.24 The QoS data associated with these events can generally be identified because the impact is narrowly time-bound (e.g. a storm which occurred during a particular weekend) and/or sufficiently geographically precise (e.g. particular motorway closures). This can then be extracted from the overall sample, enabling quantification of the impact of that particular event on Royal Mail's performance. However, where it is not possible to fully quantify the impact on QoS, we may nevertheless seek to take account of the exceptional event in our findings.

¹⁴ Although, it should be noted that the First Class standard is not considered by itself to be determinative.

3.25 It is important to emphasise that this exercise is intended to enable Ofcom to identify and confirm the extent to which any underperformance by Royal Mail cannot be explained by mitigating factors. Accordingly, where we have found that Royal Mail has still not met its QoS targets notwithstanding any allowances for exceptional events, we may proceed to find that Royal Mail has not complied with its regulatory obligations.

4. Our assessment of Royal Mail's performance and findings

- 4.1 In this section, we assess Royal Mail's performance in light of its Submission about events which impacted its performance in 2023/24 and set out our findings. It should be noted that Royal Mail has set out these events as factors that impacted its performance but has not said whether it views them as exceptional, nor has it quantified their impact. In the discussion below, we consider each event that Royal Mail submitted and determine *whether* and *to what extent* the measure of its performance should be adjusted in light of those events i.e. whether the event goes some way to explaining the shortfall in performance.
- 4.2 More broadly, this section is Ofcom's assessment of potential mitigating factors raised by Royal Mail in respect of its performance in 2023/24. For the reasons set out below, we have decided that only one of the events put forward by Royal Mail – the delays to the CWU ballot – should be treated as a mitigating factor. This means our decision is that Royal Mail has failed to meet its targets by a considerable margin and in Section 5 we consider whether such a failure warrants the imposition of a financial penalty.

Royal Mail's QoS performance in 2023/24

- 4.3 As noted above, on 24 May 2024, Royal Mail published its performance against its QoS targets.¹⁵ On the same day, Ofcom opened an investigation¹⁶ to examine possible contraventions of two targets in the 2023/24 regulatory period, where - adjusted to the high point of the confidence interval - Royal Mail achieved:
- 74.7% against a target requiring at least 93% of First Class mail to be delivered within one working day of collection; and
 - 92.7% against a target requiring at least 98.5% of Second Class mail to be delivered within three working days of collection.
- 4.4 We wrote to Royal Mail on 24 May 2024 offering the opportunity to provide a submission to explain why it failed to meet its targets. Royal Mail responded on 18 July 2024 setting out its views on its performance.
- 4.5 In its Submission, Royal Mail set out the following as the main challenges it faced in 2023/24 that had an impact on its QoS performance:
- its difficult financial position; and
 - delays to the CWU ballot on a deal between the CWU and Royal Mail following the industrial action in 2022/23.

¹⁵ Royal Mail, 24 May 2024, [Quarterly Quality of Service & Complaints Report](#). This was in accordance with its obligations under DUSP 1.10.4.

¹⁶ Ofcom, 24 May 2024, [Investigation into Royal Mail's quality of service performance in 2023/24](#)

- 4.6 It also noted, linked to Ofcom’s current consideration of whether the USO needs to be reformed, its belief that the current targets are unachievable at a reasonable or sustainable cost.
- 4.7 Royal Mail further highlighted some other issues that it said presented challenges in improving USO QoS relating to:
- difficulties recruiting and retaining frontline staff;
 - the need to make further changes to processes and systems (table-top revisions); and
 - balancing the need for improved efficiency against volatility in workload.
- 4.8 Royal Mail also set out in a footnote some small impacts from incidents beyond its control (e.g. weather and road closures).
- 4.9 We look at each of these in more detail below.

Royal Mail’s Submission on its performance and our decision

- 4.10 Below we explain in more detail what Royal Mail said in its Submission about why it did not achieve the national First Class and Second Class targets and our decision, based on the evidence provided as part of that Submission.

Royal Mail’s Financial Position

- 4.11 Royal Mail submitted that in the first half of 2023/24, and in line with the cashflow projections provided to Ofcom as part of its normal regulatory engagement, there was “an expectation that the business would [§<]” and it was therefore necessary to impose “stringent cash preservation measures” that “materially constrained our [Royal Mail’s] ability to further invest in quality”.¹⁷
- 4.12 In line with this, Royal Mail explained that it had been unable “to undertake any recruitment in the first quarter of the period due to financial pressures”, though “once confidence in workload and rates of attrition started to stabilise and the need to recruit to improve USO QoS become [sic] clear” it began to recruit again.¹⁸
- 4.13 It further stated that, following Martin Seidenberg starting as the Group CEO in August 2023,¹⁹ “[his] immediate priority...was to stabilise the business following industrial action, which involved focusing Royal Mail’s investment approach, and instilling a new rigorous approach to cash management and cost control”.²⁰

Ofcom’s decision

- 4.14 We acknowledge that Royal Mail’s financial position was difficult in 2023/24. However, in our view it is for Royal Mail to appropriately manage its financial position, taking into account its QoS obligations. Complying with regulatory requirements is an essential and mandatory part of the business of a regulated company.

¹⁷ Royal Mail’s Submission, Page 4, bullet 1

¹⁸ Royal Mail’s Submission, Page 23, section 4.2(a).

¹⁹ See: [Directorate change 20 July 2023 \(internationaldistributionsservices.com\)](https://internationaldistributionsservices.com)

²⁰ Royal Mail’s Submission, Page 12, section 2.3

4.15 While Royal Mail has not suggested Ofcom should expressly adjust the measure of its performance to take into account the challenging financial position it experienced in 2023/24, we do not in any case consider it would be appropriate to do so. However, we accept that Royal Mail remains in a difficult financial position and while we do not consider this to be a mitigating factor for our consideration of whether there has been a breach, we do think it is appropriate to take its current financial position into account as part of the financial penalty consideration.

Delays to the CWU ballot

4.16 Royal Mail explained that its Business Recovery, Transformation and Growth Agreement (BRTGA) sought to allow the implementation of a number of initiatives that it considered would improve its QoS performance. However, despite being agreed in principle in April 2023 (the start of the reporting period), the ballot that would allow the BRTGA to be implemented was delayed twice and did not eventually close until 11 July 2023, with the agreement not being signed until August 2023.

4.17 Royal Mail said that delays to the BRTGA and the industrial relations challenges linked to the uncertainty around the outcome of the vote, *“made it extremely challenging for Royal Mail to implement initiatives necessary to improve quality”*²¹ and *“delayed the implementation of certain initiatives essential to supporting USO QoS recovery”*.²² It further explained that, while it was *“difficult or sometimes impossible”*²³ to take steps to improve quality, it did so *“as soon as we [Royal Mail] were able to”*.²⁴ For example, it said that in the months after the ballot it:

- implemented new attendance standards on 1 August 2023, stating that these had been ready to deploy in April 2023;
- announced a new operations organisational structure in August 2023;
- appointed Customer First Business Partners into the quality team in September 2023;
- implemented new sickness policies, which it says were crucial for reducing absence and improving attendance - this was done in October 2023, delayed from August;
- continued to redress the balance of fixed to temporary staff in delivery through a significant drive to increase recruitment and retention of permanent staff, who tend to deliver higher levels of quality; and
- continued to work tirelessly to restore trust and morale across the operational workforce, coupled with more constructive and cooperative working with its unions.

4.18 Royal Mail noted that once the attendance standards and new sick policy were in place, there was a notable improvement in quality. It said that this resulted in a *“7.8% increase in First Class USO QoS between Q3 (excluding Christmas Exemption) and Q4”*.²⁵ Royal Mail further explained that at the start of the year absence levels were *“three times the national average”*²⁶ and were costing it £[><]m a year. However, after the *“new, [><] attendance*

²¹ Royal Mail submission, Page 3

²² Royal Mail submission, Page 2

²³ Royal Mail submission, Page 3

²⁴ Royal Mail submission, Page 3, Page 7 and Page 28

²⁵ Royal Mail submission, Page 3

²⁶ Royal Mail submission, Page 24

standards”²⁷ were introduced, Royal Mail said that it saw “c[><] fewer days of absence in 2023/24 compared to the prior year”.²⁸

Ofcom’s decision

- 4.19 We note that in its response to our investigation into its 2022/23 QoS performance, Royal Mail highlighted that changes to its attendance standards and sick pay were a key factor in the BRTGA and their implementation formed part of its USO QoS multi-point recovery plan.²⁹ We also recognise and acknowledge that it would have been difficult for Royal Mail to implement these (and certain other) policies before the outcome of the ballot, and that the delay to this taking place was outside of its control. As such, and taking into account the subsequent improvement in QoS performance once these initiatives were introduced, we acknowledge that Royal Mail’s QoS performance may have improved sooner had the delay to the CWU ballot not occurred.
- 4.20 While Royal Mail has not suggested Ofcom should expressly adjust our measure of its performance to take into account the delay in it being able to implement the initiatives outlined above, we have considered whether it would be appropriate to do so. Our decision is that the three-month delay is likely to have had some impact on Royal Mail’s QoS performance, but overall, we consider the impact to have been small. However, as Royal Mail has not been able to quantify the exact impact we are unable to adjust our performance measure.³⁰ In any case, we do not consider the delay explains the significant gap between Royal Mail’s performance and its targets, especially given that these policies have now been in place for a number of months and Royal Mail is still well below its targets.³¹
- 4.21 While we have not adjusted Royal Mail’s measure of performance for the delayed ballot, we have taken the delay into account as part of our penalty decision, in line with previous Ofcom decisions (see Section 5).

Achievability of the current targets

- 4.22 Royal Mail also submitted that the current QoS targets are “*not achievable at a reasonable or sustainable cost.*”³² Specifically, Royal Mail stated that the current targets were set in 2006 and focus “*on speed not reliability*”.³³ It further explained that, given the focus on speed “*they [the targets] require us to carry a high resource cushion, which drives high fixed costs into our delivery operation*”.³⁴ It added “*a cash-constrained company does not have a limitless ability to invest in quality while at the same time there is an unrelenting focus on driving efficiency.*”³⁵

²⁷ Royal Mail submission, Page 25

²⁸ Royal Mail submission, Page 25

²⁹ Royal Mail submission, page 48, 49 & 50, 2022/23 investigation

³⁰ We note that the impact would be difficult to quantify given that the impact was not localised, or meaningfully timebound.

³¹ For Q1 2024/25, Royal Mail’s reported First Class QoS performance was 79.1% and Second Class QoS performance was 94.1%. See [Quarterly Quality of Service & Complaints Report](#).

³² Royal Mail’s Submission, Page 4

³³ Royal Mail’s Submission, Page 4

³⁴ Royal Mail’s Submission, Page 4

³⁵ Royal Mail’s Submission, Page 14

4.23 Royal Mail also pointed to Ofcom’s view in our Call for Inputs on the future of the universal postal service (the ‘CFI’) whereby we recognised “*that the extent and the net cost of the [USO] obligation could contribute to the challenges in meeting QoS levels*”³⁶ and that “*the net cost we have calculated may represent an unfair financial burden on Royal Mail*”.³⁷ Royal Mail went on to state that the net cost is indeed constraining its ability to meet USO QoS levels.

Ofcom’s decision

- 4.24 Separate to this investigation, Ofcom is considering how the USO requirements may need to be reformed to better reflect reasonable user needs, and to ensure it can continue to be affordable and sustainable in the future. This includes consideration of whether any associated changes to the QoS targets might be needed. Any such changes will, however, be subject to public consultation and Ofcom will take into account the views of all respondents and stakeholders before any decision is made.
- 4.25 Accordingly, for the purpose of this investigation, the relevant regulatory rules are those currently set out in the DUSP conditions which were in force during the 2023/24 regulatory period. In any case, we note that Royal Mail failed to meet its First and Second Class targets by a significant margin.
- 4.26 Royal Mail has not suggested Ofcom should expressly adjust the measure of its performance to take into account its belief that the current targets are unachievable, and in any case, we do not consider it appropriate to do so. While we do not consider this to be a mitigating factor for our consideration of whether there has been a breach, we have taken into account the scope for potential changes to the USO requirements, including the QoS targets, as part of our penalty consideration.

Recruitment and retention

- 4.27 As noted above, Royal Mail stated that it was “*unable to undertake any recruitment in the first quarter of the period due to financial pressures*”, but “*once confidence in workload and rates of attrition started to stabilise and the need to recruit to improve USO QoS become [sic] clear*” it recruited more frontline staff on its new terms and conditions. When conducting this recruitment, Royal Mail has advised that it also sought to reduce its reliance on agency staff and overtime by increasing its recruitment and retention of permanent staff, who it stated “*tend to deliver higher levels of quality*”. Royal Mail explained that it ultimately aims to achieve [⌘] [an appropriate and effective balance of full time and variable resource].
- 4.28 Notwithstanding this, Royal Mail has explained that when it did begin to recruit, finding and retaining staff remained a challenge, particularly in certain areas of the country and with the economic backdrop that existed. In particular, Royal Mail reflected that, in 2023/24:
- economic inactivity remained above pre-pandemic rates;
 - Brexit implications had led to shortages of lower skilled labour;
 - flexible working in the ‘gig’ economy meant an increased expectation of flexibility and working patterns;
 - labour rates were competitive; and

³⁶ [The future of the universal postal service \(ofcom.org.uk\)](#), para 8.46

³⁷ [The future of the universal postal service \(ofcom.org.uk\)](#), para 8.47

- the Gen Z workforce have a transient mindset with a ‘short term’ outlook that impacts levels of staff turnover.
- 4.29 It further noted that it had difficulties:
- *“attracting quality people in the highly competitive “final mile” market when owner driver models are prevalent with our [Royal Mail’s] competitors”*; and
 - *“hiring people who can physically do the job (sustainably and without absence through injury)”*.
- 4.30 To tackle these issues, Royal Mail explained that it had revised its recruitment and retention incentives in difficult-to-recruit areas and revised its ‘weekly hours’ offer to lift overall weekly take home pay. It also increased its focus on, and engagement with, new starters by, for example, keeping them on the same walk for the first six weeks to provide stability.
- 4.31 Royal Mail provided Figure 1 to show its recruitment, attrition and overall headcount in delivery during 2023/24.

Figure 1: Royal Mail recruitment, attrition and headcount in delivery 2023/24³⁸

[X]

Ofcom’s decision

- 4.32 We acknowledge that Royal Mail had issues recruiting and that attrition was high in the 2023/24 period. We welcome the steps Royal Mail took in an effort to improve its performance in this area. However, ultimately the recruitment issues described by Royal Mail will be felt by many businesses, and we expect Royal Mail to take the steps necessary to mitigate these to the best of its ability.
- 4.33 While Royal Mail has not suggested Ofcom should expressly adjust the measure of its performance to take into account the recruitment and retention issues that it experienced, we have considered whether it would be appropriate to do so. Our decision is that this is generally the type of event that the allowance built into the targets is intended to cover and, therefore, the measure of its performance should not be adjusted for this. In other words, Royal Mail is generally expected to manage attrition and retention issues to deliver an appropriate level of service. We also note that Royal Mail did not quantify the impact that recruitment and retention issues had on its performance.

Other issues

Revisions

- 4.34 Royal Mail explained that one of the challenges of meeting its QoS targets in 2023/24 was the need to implement further revisions to *“address changes in traffic mix and equalise performance”*.³⁹ Royal Mail further explained that the revision process is essential to ensure it is effectively resourcing to workload. Royal Mail stated that “[X] tabletop revisions”⁴⁰ were

³⁸ Headcount (RHS) means Right Hand Scale

³⁹ Royal Mail’s Submission, Page 4

⁴⁰ Royal Mail’s Submission, Page 26. ‘Table top revisions’ in Royal Mail’s delivery operation, refers to a change process (usually involving c10-12 steps) that is completed largely by the delivery office, supported by a revision planner, to improve performance in the unit. The main objective is to improve productivity in line with target.

deployed between August and October 2023, with a further “[><] Geo route revisions planned in delivery offices” in February 2024.⁴¹

Balancing the need for improved efficiency against volatility⁴²

4.35 Royal Mail explained that a further challenge to meeting its QoS targets was the “*continuing difficulties in balancing efficiency improvements and forecasting workload*” due to the resource cushion being reduced. It added that as efficiency improves, it “*remains exposed to demand volatility whilst contending with a traditional fixed labour model*”. It added that its labour model “*constrains its ability to respond rapidly to changes in workload. High volatility across both letters and parcels makes it very difficult to forecast that workload*”.

Impacts from matters it said were beyond its reasonable control (MBORC)

4.36 In its Submission, Royal Mail stated that “*The impact of [events beyond its control] in 2023/24 on First Class USO QoS in 2023/24 was 0.2%. This includes adjustments in respect of National Highways, adverse weather and flight/rail/road delays and cancellations*”.⁴³

Ofcom’s decision

4.37 We acknowledge Royal Mail’s argument that there may have been reasons for the delay in implementing necessary revisions and that this may have been linked to the organisational culture, which Royal Mail stated “*manifests in various ways [...] for example, an unwillingness to [...] accept necessary revisions*”.⁴⁴

4.38 While Royal Mail has not suggested Ofcom should expressly adjust our measure of its performance to take into account the above issues, we have considered whether it would be appropriate to do so. Our view is that we expect Royal Mail to have the resources and capability to adapt and manage changes in traffic mix and improve efficiencies within its existing allowance. We also note that Royal Mail explained that resource originally allocated to assist with delivery revisions was “*reallocated to support high impacting delivery offices*”⁴⁵ and it is unclear what impact this may have had on the revisions.

4.39 Further, Royal Mail has not provided any further information on the steps it took to mitigate the impact on QoS from these three issues, and we do not consider the potential impact of these to be material in terms of its overall performance across the period. For all these reasons, our decision is that it is not appropriate to make an adjustment for these issues.

Finding of contraventions of DUSP 1.9.1

4.40 As explained above, we do not consider it appropriate to adjust the measure of Royal Mail’s performance to take into account any of the challenges Royal Mail said it faced in 2023/24.

4.41 This means our finding is that:

The revision process will review the unit’s underlying data (such as workload, work hours, productivity, QoS) and use this data to assess if any changes are required in order to improve performance.

⁴¹ Royal Mail’s Submission, Page 9, Figure 3

⁴² Royal Mail’s Submission, Page 4, page 10

⁴³ Royal Mail’s Submission, Page 8, Footnote 5

⁴⁴ Royal Mail’s Submission, Page 11

⁴⁵ Royal Mail’s Submission, Page 21

- a) For First Class Mail, Royal Mail achieved 74.7% against a target of 93%, including the confidence interval.⁴⁶ This means Royal Mail's performance was **18.3** percentage points below the First Class target.
 - b) For Second Class Mail, Royal Mail achieved 92.7% against a target of 98.5%, including the confidence interval.⁴⁷ This means Royal Mail's performance was **5.8** percentage points below the Second Class target.
- 4.42 We, therefore, conclude that Royal Mail's performance for both First and Second Class services fell well below its QoS targets in 2023/24, with no significant and continuous improvement over that period. While we welcome the improvement that occurred in Q4, Royal Mail's overall performance in 2023/24 was only marginally better than its reported performance in 2022/23 - a year which was marked by substantial disruption including 18 days of strike action - and was far below its adjusted performance for 2022/23, which accounted for that industrial action.
- 4.43 Taking all of the above into account, our decision is that Royal Mail contravened DUSP condition 1.9.1 in 2023/24.

⁴⁶ The confidence interval for the First Class mail performance was +/-0.2, as set out on page 3, [QoS 2023-24 report](#)

⁴⁷ The confidence interval for the Second Class mail performance was +/-0.3, as set out on page 2, [QoS 2023-24 report](#)

5. Consideration of financial penalty

- 5.1 In this section, we set out our consideration of whether it would be appropriate to impose a financial penalty on Royal Mail and, if so, what level of penalty would be appropriate and proportionate. In doing so, we have taken into account the seriousness of Royal Mail's failure to meet the targets mentioned above, relevant factors identified in our Penalty Guidelines and, as an overarching consideration, the need to impose a penalty which fulfils Ofcom's central objective of deterring poor performance.
- 5.2 In making this decision we have also taken into account Royal Mail's Submission.

Legal framework

- 5.3 In Section 4 above, we set out our reasons for determining that Royal Mail has contravened DUSP 1.9.1 in 2023/24 by failing to achieve the First Class and Second Class targets.
- 5.4 As explained in Section 3 above, under paragraph 6 of Schedule 7 to the Act, Ofcom may impose a financial penalty on a person who has, in one or more of the respects notified by Ofcom, been in contravention of a regulatory requirement.
- 5.5 In determining whether to impose a penalty for a contravention, and the size of that penalty, we must have regard to Ofcom's Penalty Guidelines,⁴⁸ which state that the central objective of imposing a penalty is deterrence. In addition, and in accordance with the Act,⁴⁹ any penalty we impose must be appropriate and proportionate to the contravention in respect of which it is imposed.
- 5.6 In line with our regulatory enforcement guidelines for investigations, we also have regard to our statutory duties. This includes our duty under section 29 of the Act to secure the provision of a universal postal service having regard to the need for that service to be financially sustainable and efficient, and our more general duty under section 3 of the Communications Act 2003 to further the interests of citizens and consumers, where relevant by promoting competition.⁵⁰
- 5.7 When determining the level of a penalty, Ofcom must have regard to any representations made by Royal Mail and any steps taken by Royal Mail to comply with the relevant regulatory requirements.

Decision to impose a financial penalty

- 5.8 Ofcom takes compliance with QoS targets very seriously and we would expect to impose a financial penalty in any circumstances where there has been a non-trivial failure to meet the

⁴⁸ Ofcom, 14 September 2017, [Penalty Guidelines: Section 392 Communications Act 2003](#), see also Section 392 of the [Communications Act 2003](#)

⁴⁹ Paragraph 7(1) of Schedule 7 to the Act

⁵⁰ Ofcom, 12 December 2022, Regulatory Enforcement Guidelines for investigations: Guidelines; [Postal Services Act 2011](#) and [Communications Act 2003](#)

required targets, and which cannot be justified by some mitigating factor. In this case, such a failure has occurred.

- 5.9 As set out above, Royal Mail pointed to a number of challenges that it said impacted its QoS performance, including, amongst other things, its financial position, the delay to the CWU ballot and recruitment and retention issues. Royal Mail also noted its belief that the current targets are unachievable at a reasonable or sustainable cost and noted Ofcom's current work on considering USO reform.
- 5.10 As explained above, we do not consider it appropriate to adjust the measure of Royal Mail's performance to take into account these challenges, meaning that Royal Mail's QoS performance for First and Second Class mail in 2023/24 fell well short of the expected level of performance.
- 5.11 Further, it is our finding that the steps Royal Mail took over the period were insufficient or ineffective in terms of their scope, timing and/or implementation to the extent that we did not see meaningful improvements.
- 5.12 The outcome of the insufficient or ineffective steps in this case was considerable consumer harm, with millions of customers likely not getting the service they paid for. Overall, Royal Mail's performance in 2023/24 was only marginally better than its reported performance in 2022/23 - a year which was marked by substantial disruption including 18 days of strike action - and was far below its adjusted performance for 2022/23, which accounted for that industrial action.
- 5.13 Taking all of the above into account, it is our decision that the imposition of a penalty is appropriate and proportionate to the seriousness of the contravention and to incentivise Royal Mail to take sufficient and effective steps to improve its QoS performance.
- 5.14 This view should not be taken to mean that we expect Royal Mail to take every possible step to comply with its QoS targets, regardless of cost. We recognise that such an expectation may be inconsistent with our duty to secure a financially sustainable and efficient universal postal service. However, we do have an expectation that when customers are not receiving the level of service they should be, Royal Mail will take appropriate steps to deliver significant and continuous improvement.
- 5.15 In line with this, we note that if we had considered that the steps Royal Mail had taken were effective and had resulted in a significant and continuous improvement in QoS performance throughout the year, we may not have considered it necessary to impose a financial penalty. In such circumstances, Ofcom may have taken the view that Royal Mail had performed as well as it could have given the circumstances.
- 5.16 This is something we will continue to consider over future years as Royal Mail seeks to improve its performance in line with any potential changes made to the USO obligations and QoS targets under Ofcom's future USO work.

Penalty amount

- 5.17 In considering the level of penalty which we have decided to impose, Ofcom has had regard to its published Penalty Guidelines. We have set out below the factors which we consider to be relevant to this case.

Deterrence

- 5.18 As detailed above, Ofcom’s Penalty Guidelines set out that the central objective of imposing a penalty is deterrence.
- 5.19 In its Submission, Royal Mail stated that a financial penalty in this case would not be appropriate or proportionate and that *“Deterrence is not a relevant policy objective”* because:
- It made demonstrable improvements in USO QoS in Q4 of 2023/24 and believes it took meaningful, appropriate and affordable steps;
 - It is committed to continuous improvement and has a USO QoS action plan; and
 - It said that penalising it would potentially further endanger its financial sustainability, risk the viability of the USO and would provide no deterrent effect.⁵¹
- 5.20 For the reasons set out in paragraphs 5.8-5.13 above, we consider that some element of deterrence is necessary in this case to incentivise improvement and to reduce the likelihood of future harm to customers. In fact, we consider deterrence to be particularly important in this case. This is because Royal Mail’s performance in 2023/24 remained far below the expected level, causing considerable harm to its customers, whilst Royal Mail received millions of pounds for a service it did not deliver. We also did not see significant and continuous improvement from its results in the previous year. QoS performance for both First and Second Class mail declined until Q4, with improvement coming after our decision that Royal Mail had contravened its obligations in 2022/23 and needed to improve.
- 5.21 In coming to this conclusion, we have taken into account Ofcom’s current work to determine how the universal service might need to evolve. As set out in paragraph 4.24, no decision has been made on that yet; however, we have considered the proportionality of our penalty taking into account the scope for potential changes to the USO requirements, particularly the QoS targets.

Seriousness, financial gain and degree of harm

- 5.22 The national performance targets are a minimum service level that Royal Mail is expected to achieve. For this reason, DUSP condition 1.9.1 imposes on Royal Mail a clear and unambiguous regulatory requirement.
- 5.23 The purpose of the requirement is to ensure that customers receive an adequate level of service, and we consider that any failure to meet this standard is inherently serious. This is because of the actual effect that it has on customers who purchase a service and do not receive what they have paid for. Our decision for the 2023/24 period is that Royal Mail’s First and Second Class QoS performance in 2023/24 resulted in significant consumer harm which cannot be directly remedied.
- 5.24 Royal Mail has said it was transparent with customers throughout the period which should have gone some way to managing expectations of the level of service, thereby helping to mitigate harm. In particular, Royal Mail said it:
- updated the Service Updates page on its website on a daily basis;⁵²

⁵¹ Royal Mail’s Submission, Page 7, 28 and 29

⁵² [Service updates | Royal Mail Group Ltd](#)

- set out a commitment to improving QoS performance in its annual QoS performance report;
 - had a robust complaints procedure; and
 - made compensation available.
- 5.25 We welcome moves towards further transparency, however, our finding is that it was not as transparent as it could have been during the 2023/24 period, meaning that many customers paid for service levels they did not receive. For example, we note that Royal Mail did not (and still does not) advertise performance issues and potential delays on its online postage pages.⁵³ For the 2023/24 period, it also did not publish a clear, credible and publicly communicated plan setting out how it intended to improve to deliver meaningful, sustainable and continuous improvements for consumers.
- 5.26 While Royal Mail does update the Service Updates page, this only reflects the offices that have self-reported delivery issues within their offices. Additionally, Royal Mail itself stated that it gets approximately 130,000 visits a month to the Service Updates page which is only a small proportion of the approximately [3<] Million First and Second Class items that were not delivered on time.⁵⁴ Therefore, the level of service actually received is likely to have been unexpected by some customers.
- 5.27 We acknowledge that Royal Mail did add an update to its final QoS performance report for 2023/24 committing to continuous improvement for the 2024/25 period,⁵⁵ and we would encourage it to continue – and, where possible, go further – in its transparency with customers.
- 5.28 Even where customers are aware of poor service levels, alternatives for those looking to post an item are limited and customers may still choose to use First and Second Class post. Where customers do use those services, they are required to pay full price, despite service levels being far below what they should expect to receive.
- 5.29 Turning to the resulting financial gain, we are aware that Royal Mail did not make a profit during the 2023/24 period and note its comment that: *“Any purported “gain” made by Royal Mail by selling a number of First Class and Second Class services and for which we provided a lower USO QoS, pales into insignificance when compared to the financial burden of providing the USO as identified by Ofcom”*.⁵⁶ It does not however follow that Royal Mail did not gain financially from the breach. In effect, it sold a considerable number of First and Second Class services but provided a lower quality of service than expected. As such, our view is that Royal Mail still gained money from consumers while not delivering as expected.
- 5.30 In order to estimate the scale of the harm associated with the First Class under-performance, our assessment is that Royal Mail’s miss of the First Class target by 18.3 percentage points equates to around [3<] million First Class letters which took more than

⁵³ These pages state that Royal Mail aims to deliver the next working day for First Class services and two to three working days for second class services. Further, while Royal Mail does update its Service Updates page daily to reflect offices that are experiencing issues, this is unlikely to prove useful for those customers purchasing services (i.e. those sending mail) and is likely to be more useful for customers receiving mail.

⁵⁴ This is First and second class letters (including Large letters)

⁵⁵ [Quarterly Quality of Service & Complaints Report](#), Page 1

⁵⁶ Royal Mail Submission, Page 29

one working day to be delivered.⁵⁷ This is a substantial number of items which were delivered to a service level lower than that expected by customers.

- 5.31 We consider that some indication of the level of consumer harm and Royal Mail's financial gain can be given by the estimation of the additional revenue associated with the premium charged for First Class items over Second Class items. In the case of First Class letter services, this kind of estimation suggests that Royal Mail received additional revenue of up to approximately **£[X] million** from customers that paid for the service and whose items were not delivered on time.⁵⁸
- 5.32 We note that this is a high-level estimate based on various assumptions. It also represents the upper range of potential consumer harm based on our findings that Royal Mail breached its current First Class performance target. In particular, we recognise that the consumer harm will be lower than the above estimate on the basis that:
- a) some letters may have arrived within two working days and before the three working day target for a Second Class service; and
 - b) many customers may have still opted to pay for a First Class service even if they knew it was going to be delayed (because, for example, it may still have arrived before a Second Class service).
- 5.33 While we cannot make the same kind of premium calculation for Second Class mail, we note that harm was also suffered by customers who purchased Second Class mail items that were delivered late. Given our conclusion that Royal Mail missed the Second Class national performance target by 5.8 percentage points, this equates to around **[X] million** Second Class letters not having been delivered on time.⁵⁹ Had they known of the delay at the time of purchasing the service, some customers may have chosen not to go ahead with their purchase.
- 5.34 While the consumer harm associated with first and second class parcel services is more difficult to quantify due to the number of price points associated with those services, it is likely some customers of these services would also have been harmed by Royal Mail's poor service.
- 5.35 We also note that Royal Mail's failure to meet its First and Second Class national performance targets would have had a greater effect on some customers than others and that some customers may have been harmed as a result of knock-on effects of mail arriving later than scheduled.
- 5.36 While it may not be possible to quantify the exact amount of consumer harm in this case, our view is that the consumer harm was significant, and, given the number of late items, it is likely to have impacted millions of customers. We have taken this into account in our penalty considerations.

⁵⁷ This is based on the following calculation: the total number of First Class letters (including large letters) in 2023/24 (c. [X] million) multiplied by the scale of the miss (18.3%) and multiplied by an adjustment factor to account for items during the Christmas Exemption Period (11/12).

⁵⁸ This is based on the average price differential between First and Second Class letter services, and presuming that those individuals that purchased a first class service but did not receive one may have instead purchased a second class service.

⁵⁹ Similar to the First Class measure, this is based on the following calculation: the total number of Second Class letters (including large letters) in 2023/24 (c. [X] million) multiplied by the scale of the miss (5.8%) and multiplied by an adjustment factor to account for items during the Christmas Exemption Period (11/12).

Whether appropriate steps were taken to prevent or mitigate the impact of the contravention

5.37 In the following section we set out and assess the steps taken by Royal Mail to prevent or mitigate the impact of the contravention. We note that it is not possible to retrospectively remedy the contravention in this case. This is because the contravention is established at the end of the regulatory reporting period and there is no way for Royal Mail to know which customers were harmed.

Steps taken by Royal Mail to prevent the contravention

Initiatives introduced following the CWU ballot on the BRTGA

5.38 As explained in paragraphs 4.16 to 4.18 above, we recognise that Royal Mail introduced various changes to ways of working to improve QoS following the CWU ballot on the BRTGA. We note that these changes were something Royal Mail said were important in order for it to be able to improve QoS but that it was unable to implement these as soon as it would have liked due to the delayed CWU ballot. As explained at 4.19 above, we recognise that it would have been difficult for Royal Mail to implement these (and certain other) policies before the outcome of the ballot, and that the delay to this taking place was outside of its control. As such, and taking into account the subsequent improvement in QoS performance once these initiatives were introduced and had begun to embed, we acknowledge that Royal Mail's QoS performance may have improved somewhat sooner had this delay not occurred.

Recruitment of frontline staff

5.39 In terms of staff levels, and as noted above, Royal Mail stated that it was *“unable to undertake any recruitment in the first quarter of the period due to financial pressures”*, but *“once confidence in workload and rates of attrition started to stabilise and the need to recruit to improve USO QoS become [sic] clear”* it recruited more frontline staff on its new terms and conditions. Royal Mail also explained that, when conducting this recruitment, it had sought to reduce its reliance on both agency staff and overtime by increasing its recruitment and retention of permanent staff, who it stated *“tend to deliver higher levels of quality”*. Royal Mail did not specify the effect that this had on QoS, but we do recognise that QoS was at its highest in Q4 when the headcount in delivery was also at its highest.

Changes to organisational structure

5.40 Royal Mail also made changes to its organisational structure to reduce the span of offices that each COM is responsible for, therefore *“ensuring they can better focus on supporting their units”*.⁶⁰ It did not detail the impact this restructuring had, but we recognise it was intended to help improve QoS performance. Further detail on this is included in Box 1 in Annex A3.

Re-briefing management

5.41 Royal Mail has explained that in a January 2024 briefing sent to all managers, it restated *“the importance of accurate reporting and walk rotation procedures to be applied where units are unable to cover all delivery points each day”*.⁶¹ This was part of the contingency measures

⁶⁰ Royal Mail Submission, Page 5.

⁶¹ Royal Mail Submission, Page 18

which were initiated during 2023/24 whereby walks were to be “rotated in circumstances where all other resourcing options have been exhausted (overtime, use of agency staff, etc.). This is critical to eradicate postal deserts”.⁶² While we have noted that the briefing could have been sent sooner, we do consider that by sending it Royal Mail was trying to mitigate the impact of customers potentially not receiving their mail for an extended period from offices that were experiencing issues.

Improved oversight of local delivery offices

5.42 In our 2022/23 investigation we raised some concerns about Royal Mail’s oversight of local delivery offices. Our full findings on the steps Royal Mail has taken to address these concerns, both before and after our 2022/23 decision, are set out in Annex A3. For the purposes of this discussion, we note that the steps it did take, such as making better use of data, making unannounced delivery office visits and redeploying staff, were intended to help improve QoS performance, although no estimate of their impact has been made.

Assessment

5.43 While we acknowledge each of the steps Royal Mail took in the 2023/24 period, it is our decision that these steps were ultimately insufficient or ineffective in terms of their scope, timing and/or implementation to the extent that they did not result in meaningful improvement.

5.44 We do recognise that the initiatives introduced following the successful CWU ballot did appear to have a demonstrable positive impact on Royal Mail’s QoS performance and also recognise that, had it been able to introduce these sooner, its QoS performance may have improved from an earlier date, leading to an overall improved level of performance. However, we do not consider that the delay to this ballot fully explains the significant gap between Royal Mail’s performance and its targets. While we have taken the delayed ballot into account when considering the level of any penalty, our overall view remains that the steps taken in 2023/24 were insufficient or ineffective in improving outcomes for customers.

5.45 Taking the above into account, we do not consider that the steps taken by Royal Mail in 2023/24 brought about a significant and continuous improvement in performance. We have however taken into account the steps Royal Mail did take in 2023/24 to improve its performance when determining the level of the penalty in this case.

History of contraventions

5.46 Since 2012/13, Royal Mail has reported a performance level that fell below:

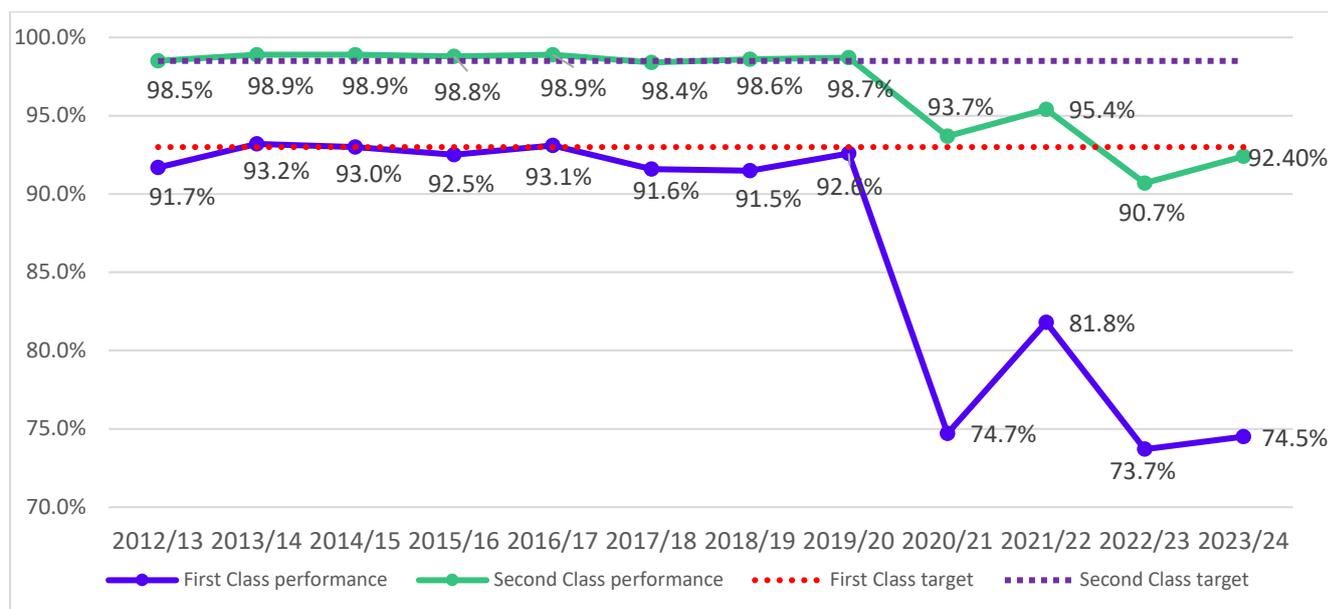
- a) The First Class national performance target on 8 prior occasions; and
- b) The Second Class national performance target on 4 prior occasions.⁶³

5.47 Figure 1 shows Royal Mail’s reported performance against the First Class and Second Class national performance targets since 2012/13.

⁶² Postal deserts means where mail is not delivered on consecutive days. Royal Mail Submission, page 18 and 19

⁶³ Royal Mail’s reported performance in 2017/18 was below its target, however, after adjusting Royal Mail’s performance to account for mitigating factors and taking into account the confidence interval, we concluded that Royal Mail had achieved the Second Class national target.

Figure 1: Royal Mail’s First and Second Class reported performance⁶⁴, 2012/13 to 2023/24



Source: Ofcom, using data from Royal Mail

5.48 In all of the cases where Royal Mail’s reported performance has fallen below the targets, we considered whether enforcement action would be appropriate, as set out below.

| QoS Year | Decision | Penalty |
|----------|--|---------------------|
| 2012/13 | We decided that enforcement action would not be a proportionate response on this occasion, with a relevant factor in this decision being the impact on quality of service of Royal Mail’s ongoing modernisation programme. | N/A |
| 2015/16 | We issued a contravention decision for failing to meet the First Class national (and Post Code Area (PCA) target) but decided not to impose a financial penalty because the miss was relatively narrow after adjusting Royal Mail’s performance to take into account mitigating circumstances. | £0 |
| 2017/18 | We issued a contravention decision for failing to meet the First Class national performance target but imposed no penalty because the miss was relatively narrow and Royal Mail took steps to improve performance. ⁶⁵ | £0 |
| 2018/19 | We found Royal Mail in breach of the First Class national and PCA target. After adjusting Royal Mail’s performance to account for events we deemed to be exceptional, it still failed to meet the performance targets by a significant margin. | £1.5m ⁶⁶ |

⁶⁴ Not taking into account adjustments to its performance for events which we deemed to be exceptional

⁶⁵ After adjusting Royal Mail’s performance to account for mitigating factors and taking into account the confidence interval, we decided that Royal Mail had achieved the Second Class national target.

⁶⁶ The penalty was for breaching the First Class target, not the PCA target.

| QoS Year | Decision | Penalty |
|----------|--|---------------------|
| 2019/20 | Royal Mail was on track to meet the First Class national target during March 2020 before the Covid-19 outbreak. Accordingly, in July 2020, we announced that, taking into account the impact of Covid-19 on Royal Mail's operations, we were satisfied that Royal Mail had met its obligations. | N/A |
| 2020/21 | We did not investigate Royal Mail in light of the uniquely difficult circumstances of Covid-19 which had a substantial impact on Royal Mail's QoS performance. | N/A |
| 2021/22 | We decided that it would not be appropriate to find Royal Mail in breach of its QoS targets given the continued persistent and unpredictable effects of Covid-19. However, we warned Royal Mail that its QoS performance needed to improve. | N/A |
| 2022/23 | We found Royal Mail in breach of the First Class, Second Class and Delivery routes completed targets. Even after taking account of events which we deemed to be exceptional, and adjusting Royal Mail's performance accordingly, it still failed to achieve its targets by a significant margin. | £5.6m ⁶⁷ |

5.49 Ultimately, this is the second year in a row where we have found that customers have received an unacceptable level of service. We have taken into account the above history of contraventions in our penalty considerations, in particular this consecutive breach.

Cooperation

5.50 Royal Mail has co-operated fully with Ofcom's investigation, in addition to providing Ofcom with regular updates on its USO QoS performance throughout 2023/24.

5.51 We acknowledge and have taken into account Royal Mail's helpful and constructive engagement in respect of Ofcom's ongoing monitoring of QoS and its full cooperation with this investigation.

Turnover and financial position

5.52 The maximum penalty that Ofcom can impose, in accordance with paragraph 7(2) of Schedule 7 to the Act is 10% of Royal Mail's turnover from its postal services business.⁶⁸ We do not consider that this statutory limit is engaged in this context.

5.53 In making our assessment as to the appropriate and proportionate level of penalty, we have also carefully considered Royal Mail's overall financial position, including its profitability and cash flow position. This is based both on public statements and confidential regulatory financial information.

⁶⁷ The penalty only applied to the First and Second class targets and included a 30% discount for settlement of the case.

⁶⁸ The regulatory financial statements set out the turnover for Royal Mail and International Distribution Services PLC (of whom Royal Mail Group Limited is a wholly owned subsidiary). See Royal Mail, [Regulatory Financial Statements for the 52 week period ended 31st March 2024](#).

Conclusion on penalty

- 5.54 In the specific circumstances of this case and having considered all the relevant factors discussed above, we have decided that it is appropriate to impose a penalty on Royal Mail for its failure to meet its national performance target for First and Second Class mail.
- 5.55 Having regard to the factors set out above, we have considered whether it would be proportionate to impose a penalty of £30-40 million on Royal Mail, in light of our estimate of financial gain/consumer harm and the need for deterrence. However, we have decided that a penalty of £10.5 million is appropriate and proportionate to the contravention and should have an appropriate deterrent effect. This penalty includes a 30% discount from the penalty Ofcom would otherwise have imposed. The discount reflects Royal Mail's admissions of liability and its agreement to settle which has allowed Ofcom to bring this matter to a close more swiftly.
- 5.56 This penalty balances the factors identified in this Section, in particular: the significant consumer harm, which is likely to have impacted millions of customers, as a result of the poor service; the unavoidable delays to some of Royal Mail's initiatives to improve performance; our recognition of Royal Mail's financial position and that it is on a recovery path to significantly improve its performance; and the scope for potential future changes to the USO requirements, including the QoS targets. Our decision is that this penalty is appropriate and proportionate to incentivise Royal Mail to make significant improvements to its QoS performance so that customers can once again receive a reliable service in line with what they have paid for.

Interpretation

- 5.57 Words or expressions used in this Notification have the same meaning as in the Act except as otherwise stated in this Notification.

Ian Strawhorne

Director of Enforcement

13 December 2024

A1. Excerpts from DUSP Condition 1

- A1.1 DUSP condition 1.6.1(a) requires Royal Mail to provide a ‘USO priority service’ with a target routing time of one working day for conveying postal packets from the deemed date of collection to the date of delivery (also known as “D+1”).
- A1.2 DUSP condition 1.6.1(b) requires Royal Mail to provide a ‘USO standard service’ with a target routing time of three working days for conveying postal packets from the deemed date of collection to the date of delivery (also known as “D+3”).
- A1.3 Royal Mail refers to D+1 and D+3 products as First Class and Second Class products respectively. For ease of reference, we have also adopted these terms in this document.
- A1.4 DUSP condition 1.9.1 requires Royal Mail to meet certain QoS performance standards, including:
- a) a First Class national performance standard, which requires at least 93% of First Class mail to be deemed to have been delivered with an actual routing time of no more than one working day i.e. within one working day of collection;
 - b) a Second Class national performance standard, which requires at least 98.5% of Second Class mail to be deemed to have been delivered with an actual routing time of no more than three working days i.e. within three working days of collection; and
 - c) a delivery route performance target, which requires 99.9% of delivery routes to be completed each day upon which a delivery is required.
- A1.5 DUSP condition 1.9.1 requires Royal Mail to meet these standards in respect of each annual period ending on 31 March, with the exception of the ‘Christmas period’, which is defined as the period beginning on the first Monday in December and ending on the New Year public holiday in the following January.⁶⁹
- A1.6 DUSP condition 1.9.2 requires Royal Mail to monitor, or to procure the monitoring of, its performance in relation to the specified QoS standards using an appropriate testing methodology. The approach used by Royal Mail to do so is explained below.
- A1.7 Royal Mail has been subject to equivalent regulatory obligations since 2001, including the above mentioned standards.⁷⁰ The levels of the standards were initially based on Royal Mail’s then internal QoS targets.⁷¹ Royal Mail subsequently agreed to an increase in the standards and by 2005/06 the present levels applied.⁷² In establishing a new regulatory

⁶⁹ In Scotland, the Christmas period extends to the Scottish New Year public holiday.

⁷⁰ Condition 4 of [Royal Mail’s licence](#) granted on 23 March 2001.

⁷¹ See Postcomm, January 2001, [Licence for Consignia plc – A consultation document and notice](#), page 13, para. 2.12.

⁷² See Postcomm, October 2002, [Review of Consignia plc’s Price and Service Quality Regulation: Proposal for a Second Price Control](#), page 82, para. 7.5. Royal Mail’s licence was amended on 31 March 2003 to reflect the revised standards.

framework in 2012 we decided to maintain QoS regulation at these levels. We noted that “[h]istorical performance suggests that all of the targets are achievable.”⁷³

⁷³ Ofcom, 13 December 2011, [Review of Regulatory Conditions - Postal Regulation](#), page 33, para. 5.43.

A2. First Class standard

A2.1 Section 5.2 of the First Class standard, entitled “Transit time calculation”, discusses force majeure events. It reads as follows:

“5.2.2 Continuity of measurement

The measurement system shall be continuous. Posting shall cover all months and weeks of the year and at least all collection days of the week in accordance with the definition of the measurement unit and the transit-time calculation rule. All periods of the year shall be included as well as Christmas, Easter and summer holiday periods.

Non-functioning of the postal operator and days of strikes or industrial disputes shall not be discounted. However, in case of “force majeure” events, deduction of corresponding periods may be considered [by the regulatory authority⁷⁴]. Any deduction shall be indicated in the reporting and be subject to audit.

[...]

- For an event to qualify as force majeure, the incident shall fulfil the following minimum requirements. It shall not be caused by the operators involved in the distribution and / or their subcontractors,*
- be unforeseeable and,*
- be unavoidable by them.*

It shall;

- be a rare event,*
- have a provable impact on several consecutive days of distribution.*

Thus in case of, for example, natural disaster or terror attacks it should be allowed to consider the deduction of the corresponding period during which operation is affected in such a way that transit times cannot be guaranteed by “normal” postal operation.”

A2.2 Section H.3.5, entitled “Force majeure”, covers a number of topics related to force majeure events. Within this section is the following sub-section:

“H.3.5.4 Examples of force majeure

natural disasters; earthquake, flooding or other extreme weather conditions (which are unlikely in that region or country) causing damage to e.g. goods, infrastructure, people and making the postal operator unable to perform its obligations,

war or terrorist activity causing physical damage to e.g. goods, infrastructure, people or creating a psychological distress that results in non-performance,

⁷⁴ See European Standard EN 13850:2020, section F.2.2.

general strike; an external strike outside the operators influence and where all major transportation systems are blocked on a nation-wide level.

The following events may not qualify as force majeure:

strike within the operators influence,

periods of the year or days with an unusually large volume of mail and / or parcels, independent of the induction point.”

A3. Issues in the operation of delivery offices

- A3.1 The information below does not form part of our Decision but instead gives an update on the concern we raised last year.⁷⁵ This section draws on Royal Mail’s Submission and slides provided by Royal Mail throughout the 2023/24 period as part of regular monitoring meetings.
- A3.2 Our 2022/23 investigation raised a concern about whether Royal Mail was exercising sufficient control over local decision making at delivery offices, which we viewed as fundamental to it meeting its QoS obligations.⁷⁶ Given our concern, we asked Royal Mail to tell us what actions it had taken as a result and to outline the impact on QoS of any action taken to address our concerns or, alternatively, when those actions are expected to have an impact.
- A3.3 Royal Mail explained that in July 2023, before we raised our concern, it began making changes to its operational structure in order to improve accountability at a number of levels in the delivery network.⁷⁷ These changes are set out in Box 1 below.

Box 1: Changes made by Royal Mail to its operational structure - before Ofcom’s 2022/23 decision

- Introducing two Field Operations Directors – North and South
- Moving from 10 to 12 regions for Regional Operations Directors (RODs) so each ROD had a smaller span of responsibility. The RODs would report to the newly created Field Operations Directors
- Aligning the mail centres to RODs
- Appointing 40 Operational Performance Managers (OPMs) to support high impacting units (i.e. poor performing units)
- Recruiting 23 additional OPMs, increasing the total number from 57 to 80 and moving from a ratio of c1:30 to c1:15 units per OPM⁷⁸
- Appointing 514 lead Customer Operations Managers (COMs) into larger delivery offices to gain greater control⁷⁹ in units and to coach and develop COMs in units⁸⁰
- Appointing Customer First Business Partners to support the high impacting units

⁷⁵ Our concern was around the lack of control over local delivery offices. See paras 4.58 – 4.69: [Decision finding Royal Mail contravened its Quality of Service performance targets in 2022/23 and imposing a financial penalty](#)

⁷⁶ [Decision finding Royal Mail contravened its Quality of Service performance targets in 2022/23 and imposing a financial penalty](#), para 4.58 – 4.16

⁷⁷ Royal Mail explained the below in its Submission, Page 15

⁷⁸ While this was announced in July 2023, the new roles started in December 2023.

⁷⁹ Royal Mail explained this is just whilst KPIs are significantly below target. Presentation to Ofcom - December 2023, Slide 4.

⁸⁰ Presentation to Ofcom - December 2023, Slide 4.

- A3.4 Royal Mail further explained that since we raised our concern it has put in place a number of additional actions to try to improve its control and oversight of local delivery offices. These changes are set out in Box 2 below.

Box 2: Changes made by Royal Mail to its operational structure – after Ofcom’s 2022/23 decision

Reiterating the reporting standards: In January 2024 a national briefing was sent to all COMs from the new operations director restating the importance of accurate reporting and walk rotation procedures to be applied where units are unable to cover all delivery points each day. Royal Mail explained that the recipients had to make a declaration to confirm that they have read and understood the briefing.

Recruiting 23 additional OPMs: This increased the total number from 57 to 80, moving from a ratio of c1:30 to c1:15 units per OPM.⁸¹

Enhanced the quality control (“nerve”) centre: Royal Mail said this was to drive real time operational performance analysis and enable proactive intervention as required. Linked to the findings of the weekly report, Royal Mail now makes unannounced visits to delivery offices to ensure they are complying with reporting and other standards and to provide on-site coaching and advice. The site visits also check that delivery points are being rotated if delivery walks “routes” are not fully covered each day. These visits are recorded on its new compliance app.⁸²

New USO Training: In February 2024, a new mandatory training module was introduced for all new joiners with a greater emphasis on the USO than was previously the case.⁸³

Redeployment of staff: 200 planners and a National Performance Team of 40 managers were redeployed to focus on supporting the worst performing units.⁸⁴

Making better use of data: Royal Mail says it has made “significant improvements” to its use of data to identify delivery offices requiring support. It uses this data to produce a weekly triangulation report of Radio-frequency identification (RFID) tail of mail data, customer complaints and USO failures to identify potential risk units and routes.⁸⁵

- A3.5 It is clear from the above that Royal Mail has taken our concern seriously and put in place several measures aimed at addressing that concern. It also appears that these and other measures, such as the audits capturing incorrect reporting at some delivery offices, are having a positive impact. For example, Royal Mail has reported that *“The number of units triggering the service update page criteria has also reduced with the proactive approach of contacting risk units to take such steps as are necessary to increase their delivery route coverage”*.⁸⁶
- A3.6 We are pleased that Royal Mail has taken these steps, which are likely to have contributed to its improved performance in the last quarter of 2023/24 and we would encourage it to continue on this path of improvement.

⁸¹ While this was announced in July 2023, the new roles started in December 2023.

⁸² Royal Mail Submission, Page 5

⁸³ Presentation to Ofcom – 4 March 2024, Slide 8 and Royal Mail Submission, Page 9

⁸⁴ Presentation to Ofcom - December 2023, Slide 4

⁸⁵ Royal Mail Submission, Page 5

⁸⁶ Royal Mail Submission, Page 22.

A3.7 While it is not our role to advise Royal Mail how to run its operations, one suggestion would be to consider expanding its audit programme to cover all delivery offices. We note that the majority of Royal Mail's delivery office visits are to those offices that have self-reported that they are experiencing problems, with other offices potentially being captured by customer complaints data and RFID data. This approach could mean that some offices are still being missed given only [X] offices out of c1200 have RFID data and customer complaints may not be timely or cover all failures, especially as some customers may not be aware that an item has not arrived on time.⁸⁷

⁸⁷ This is further evidenced by the fact that for [X]% of the checks that have so far been carried out, the results of the checks did not align with the self-reported data. Note that some of these checks fall within the 2024/25 reporting period.

A4. Notifications issued during the investigation

- A4.1 On 09 December 2024, we issued a Notification to Royal Mail under paragraph 2 of schedule 7 to the Act. This Notification explained that we had reasonable grounds for believing that Royal Mail had contravened DUSP Condition 1.9.1 in the 2023/24 period. Royal Mail also had the option to settle the investigation.
- A4.2 On 10 December 2024, Royal Mail confirmed that it wanted to settle and stated that it understood that by doing so it was waiving its procedural rights to make written representations or have an oral hearing on the substance of the provisional findings. It also confirmed that it would not challenge or appeal against the final decision.