

**COMMUNICATIONS PROVIDERS' VOLUNTARY CODE OF PRACTICE FOR AN  
AUTOMATIC COMPENSATION SCHEME**

**10 November 2017**

## **Communications Providers' Voluntary Code of Practice for an Automatic Compensation Scheme for service issues relating to residential fixed-line telephony and broadband services**

### **Background**

1. Ofcom's Review of Digital Communications indicated the need for the communications sector to deliver better quality of service for fixed telephony and broadband consumers. It identified automatic compensation for consumers as one of a number of actions to be implemented by Communications Providers. Automating the payment of compensation, by limiting the level of *consumer* involvement required to receive payment, ensures that consumers are compensated quickly and easily by their Communications Provider for a qualifying service quality issue.

### **Setting minimum standards for automatic compensation**

2. To ensure these goals are achieved and that a Communications Provider's compensation policy is adequate to meet these requirements, this Code of Practice contains a set of minimum standards that a participating Communications Provider must commit to.
3. To comply with the Code, the Communications Provider must create an automatic compensation scheme that meets certain key criteria and must compensate consumers who experience service quality issues in the circumstances set out in this Code. Beyond that it is up to the Communications Provider to choose whether and how they compensate customers and to differentiate themselves accordingly.

### **What matters to consumers**

4. It is important that any compensation regime reflects what matters to consumers and this Code of Practice prioritises those service quality issues that will make the most difference to consumers: timely provision of service; timely fault repair and keeping appointments.
5. At a minimum, the Communications Provider must commit to providing automatic compensation if they fail to meet the minimum standards for fixed telephony and broadband services in these three areas.

### **Creating an effective automatic compensation policy**

6. Multiple factors influence the ability for a Communications Provider to provide its services, some of which are beyond the provider's reasonable control. Moreover, for automatic compensation to work effectively, each service incident must be capable of being objectively defined and measured, in order that the fault can be readily assigned and a customer's entitlement to redress is clear. This Code of Practice recognises that reality and focuses on those service issues that fall within a Communications Provider's ability to influence and which can be objectively measured and easily identified. The Code excludes automatic compensation for service issues resulting from customer-caused faults, for

example, incorrect use of devices, in-home wiring issues and missed appointments caused by the customer.

7. By focusing on these factors, the Code seeks to create a compensation framework that is consumer-focused, allowing Communications Providers to provide redress for core service issues that matter most to customers.

### **Applicability of the Code**

8. This Code applies to all Communications Providers who sign up to the Code (the “**signatories**”). A list of the signatories is kept on Ofcom’s website ([www.ofcom.org.uk](http://www.ofcom.org.uk)) and will be updated by Ofcom from time to time, as appropriate. The Code applies to the provision (including existing customers’ service upgrades which result in them being subject to a new contractual commitment period) and repair of residential fixed-line and broadband services. The Code does not apply to dedicated business services intended primarily for use by business customers. Automatic compensation is triggered by a failure to meet quality standards applicable to the service, as described below.

### **Code of Practice for an Automatic Compensation Scheme**

#### **Service issue 1: Automatic compensation for a delay in activation of a fixed line or broadband service**

9. Subject to paragraph 40 (exclusions), a Communications Provider must pay automatic compensation to a customer if it does not activate a customer’s fixed line or broadband service by 11.59pm on the date initially confirmed in writing with that customer.
10. Subject to application of paragraphs 36 to 39 (Limit on automatic compensation payments), the amount of automatic compensation payable shall be a minimum of:
  - a. £5 for the missed initial activation date; plus
  - b. £5 for each full calendar day that expires after the initial activation date until the first available date that is offered as an alternative activation date or, if earlier, the date the customer or Communications Provider terminates or cancels the affected service or services (the service(s) the Communications Provider agreed to activate on a given date).

For example, if a service is due to be activated on a Wednesday but is delayed until Thursday, then £5 will be payable (being £5 for the missed initial activation date). If it instead it was activated a day later, on Friday, then £10 will be payable (being £5 for the missed initial activation date and an additional £5 for the one additional full calendar day that you had to wait for activation).

11. In this instance ‘automatic’ compensation means that the customer must not be required to make a claim for compensation; the Communications Provider must proactively notify the customer of their eligibility when the delay in activation of the customer’s service arises. However, the customer may be asked to select the form they would like the compensation to take (see paragraph 28).

12. Automatic compensation will be payable for this service failure in addition to any automatic compensation payable as a result of a missed appointment (see below).
13. Automatic compensation applies under paragraph 9 above if the Communications Provider fails to deliver the broadband router by the activation date and the customer has notified the Communications Provider that it has not been received. Automatic compensation will not apply in this instance if the Communications Provider can demonstrate proof of postage, or provide equivalent evidence that the router has been correctly dispatched.

**Service issue 2: Automatic compensation for a delayed repair following loss of service to a fixed line or broadband service**

14. Subject to paragraph 40 (exceptions) a Communications Provider must pay automatic compensation to a customer if:
  - a. a customer reports a Total Loss of Service in relation to their fixed line or broadband service to their Communications Provider; and
  - b. following an engineer visit or remote testing and diagnosis, a Total Loss of Service is identified and a fault is (or should have been) recorded on that line or service; and
  - c. such fault is not resolved by 11.59pm on the day two working days after the fault is reported by a customer (the "Payment Trigger Time"), unless the customer has requested a later date for repair. For example, if a fault is reported on a Monday, compensation will become payable if the fault has not been fixed by the Payment Trigger Time of 11.59pm on Wednesday.
15. Automatic compensation is not payable in respect of any planned network service outage which is notified to the customer in advance.
16. Subject to application of paragraphs 36 to 39 (Limit on automatic compensation payments), the amount of automatic compensation payable shall be a minimum of:
  - a. £8 for the Payment Trigger Time; and
  - b. £8 for each full calendar day the Total Loss of Service continues for after the Payment Trigger Time .
17. In this instance 'automatic' compensation means that the customer must not be required to make an additional claim for compensation beyond the first notification it makes to the Communications Provider of the issue arising. However, the customer may be asked to select the form they would like the compensation to take (see paragraph 28).
18. Automatic compensation will be payable for this service failure in addition to any automatic compensation payable as a result of a missed appointment (see below).

19. [If the customer reports a persisting Total Loss of Service, relating to the same underlying fault, within 48 hours of resolution of the initial fault, then automatic compensation will apply as if the first fault had continued without resolution.]<sup>1</sup>
20. If a fault reported in line with paragraph 14 above is from a customer registered by the Communications Provider as eligible for “Priority Fault Repair” in accordance with Ofcom General Condition 15 (and any replacement condition), then the time for measuring resolution of such a fault shall start from the time the Communications Provider first became aware of the issue, even if the customer is unable to report it until later.
21. A customer must be able to register a service issue to which this Code applies to the Communications Provider using any contact means made available by the Communication Provider for this purpose.
22. The start time for measuring the resolution of an issue reported shall be at the time the issue is reported provided the Communications Provider has been able to confirm that there is a fault. If such report is made outside of the usual working hours for reporting faults via such communication channel, then the start time for measuring the resolution of such issue shall be 9am on the first working day following the report.
23. For the purposes of this Code, “**Total Loss of Service**” means:
  - a. in relation to a fixed voice telephony service either: i) where the customer is unable to make any outgoing calls or to receive any incoming calls; or ii) where the service only allows for one-way transmission;
  - b. in relation to a broadband service where the customer is unable to access the public internet,

in each case as a result of an unplanned change in the operation of the electronic communications network (and/or elements of that network) provided by the customer’s Communications Provider or used by it to provide its services.

### **Service issue 3: Automatic compensation for a missed engineer appointment relating to the provisioning or repair of a fixed line or broadband service**

24. Subject to paragraph 40 (exceptions), a Communication Provider must pay automatic compensation if:
  - a. a customer requires an engineer appointment for the provision or repair of a fixed line or broadband service; and
  - b. the Communication Provider confirms an engineer appointment slot to the customer; and
  - c. the engineer does not attend in the confirmed appointment slot provided by the Communication Provider.

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<sup>1</sup> CPs ability to implement this is subject to delivery by OR. See cover email.

25. Compensation is not payable if the Communications Provider gives notice of a change or cancellation of the appointment at least 24 hours' in advance of the original appointment time or if the customer otherwise agrees to a change in the appointment time slot for the same day (such agreement must be recorded by the Communications Provider or its agent on its behalf, which may be done by a customer service agent on the phone or by an alternative means).
26. The amount of automatic compensation payable shall be a minimum fixed fee of £25.
27. In this instance 'automatic' compensation means that Communications Providers must notify a customer that they are eligible for compensation as soon as the Communications Provider is aware that an appointment has been missed and payment of which is made without the customer being required to make a claim for compensation. However, the customer may be asked to select the form they would like the compensation to take (see paragraph 28).

### **Payment of Compensation**

28. If automatic compensation is payable, the Communications Provider must proactively pay this to affected customers. Subject to paragraph 29, this payment may be in the form of a bill credit or an alternative form of recompense of equivalent or higher worth. A Communications Provider may choose to offer different forms of compensation provided a bill credit is offered as an option with equal prominence. If automatic compensation is payable and the customer makes no election between any payment options offered, the Communications Provider must make the payment in the form of a bill credit.
29. Where at the time payment of automatic compensation is made, the customer will not for any reason be liable to receive any further bill from the Communications Provider, and has no prepay account with it, the payment must be made as a monetary payment to the customer.
30. Any compensation shall be made in a timely manner and no later than the date:
  - a. 30 calendar days after a delayed provision is resolved or the customer or Communications Provider terminates or cancels the service intended to be activated;
  - b. 30 calendar days after the Total Loss of Service is resolved or the customer or Communications Provider terminates the service;
  - c. 30 calendar days after the date of the missed appointment.
31. If the compensation is being made by way of a bill credit, then the credit shall appear on the customer account within the above time period although it may be reflected on the customer's bill at a later date.

32. If the customer has elected to receive an alternative form of compensation in line with paragraph 28, it may be received at a different time in line with the agreement made with the customer.
33. If a customer or Communications Provider decides lawfully to terminate or cancel the service for which automatic compensation applies, then automatic compensation payments are only paid in line with this Code up until such termination.
34. The values for automatic compensation set out in this Code apply on a per customer order basis rather than on a per service basis so if a customer takes both a fixed line and broadband service and both are affected at the same time, only one payment is payable.
35. If a customer receives their fixed line and broadband services from different Communications Providers, then the Communications Provider providing the service with which the fault originates shall be responsible for paying any applicable automatic compensation to the customer.

### **Limit on Automatic Compensation Payments**

36. The application of the automatic compensation payable in accordance with paragraphs 10 and 16 (for a delayed provision or repair for a Total Loss of Service) may be limited to 30 calendar days beyond a notice ("**the Notice**") being sent to the customer informing them that automatic compensation payments will cease.
37. The Communications Provider cannot serve the Notice before the date 30 calendar days after compensation starts. The Notice must:
  - a. set out the date, no less than 30 calendar days from the date of the Notice, on which compensation will cease ("**the Cease Date**");
  - b. set out that no early termination or default charges will be charged in the event of cancellation if a customer cancels before the Cease Date (even if service is restored during this period);
  - c. set out that the customer can still raise the issue through the complaints process and seek additional compensation via that route, including reference to ADR.
38. Provided the customer has not exercised any right to cancel before the Cease Date, after that date the Communications Provider will use reasonable endeavours to mitigate the impact caused by the absence of the service for which automatic compensation has been paid. Where reasonable, this will include the provision of an alternative form of service such as a suitable cellular based service (where appropriate and available) or pro-actively offering alternative arrangements to the customer to address the customer's specific issues. Where it is not possible using reasonable endeavours to mitigate the impact on the customer after the Cease Date, the Communications Provider will continue to pay

automatic compensation (provided the customer has not unreasonably refused a reasonable offer of such alternative measures).

39. The limit applied to automatic compensation payments in accordance with paragraphs 36 to 38 and payable under this Code remains without prejudice to:
- a. any right a customer has to cancel their services or claim additional compensation; or
  - b. any right a Communications Provider may have to end supply of a customer's services.

### **Exceptions to obligation to pay compensation**

40. A Communications Provider is not required to pay compensation to a customer if:
- a. the customer is at fault for the service failure or prevents the service issue from being resolved (based on evidence known to the Communications Provider), for example, not accepting the first available date for a repair or allowing access to their premises and/or relevant equipment;
  - b. the Communications Provider reasonably believes that the customer's report of a Total Loss of Service under paragraph 14 is fraudulent, frivolous or vexatious;
  - c. it was not reasonably practicable for the Communications Provider to avoid an obligation arising to pay compensation due to the effects of an event for which emergency regulations have been made under Part 2 of the Civil Contingencies Act 2004;
  - d. the Communications Provider could reasonably expect that, if it took the action required in order to avoid an obligation arising to pay compensation, it would or would be likely to be in breach of any law or regulation;
  - e. the customer has committed an offence under sections 125 or 126 of the Communications Act 2003;
  - f. the customer is in breach of the terms under which the affected communications services are supplied; or
  - g. the fault is not in respect of the service provided or it is caused by equipment or activity within the customer's home;
41. Subject to the exceptions in paragraph 40 above, the Communications Provider does not avoid payment of automatic compensation if the issue was caused by an event outside of the customer's or its own control.

### **Provision of information about compensation to customers**

42. The Communications Provider must ensure its automatic compensation scheme is published in plain English, in an easily accessible place and in a reasonably



prominent manner on its website. The Communications Provider shall ensure it is cross-referenced in its Customer Complaints Code of Practice.

43. The Communications Provider's published compensation scheme should include details of the service quality levels offered and associated compensation for each of the service issues identified in this Code together with any others offered.
44. When a customer enters into a contract for a service for which automatic compensation applies under this Code, the Communications Provider must tell the customer in a durable medium that an automatic compensation scheme applies for such services, where the customer can find details of its scheme and the means available to report service issues.

### **Provision of Information to Ofcom**

45. To assist with Ofcom's monitoring of the effectiveness of this Code, the Communications Provider shall provide the following information in writing to Ofcom:
  - a. The volume of each service issue to which compensation payable under this Code applies;
  - b. The total amount of compensation paid by the Communications Provider for each of these service issues;
  - c. The average duration for all delayed activation and delayed repair for loss of service issues and the average payment of automatic compensation for each type of issue;
  - d. The volume of Notices served by the Communications Provider in line with paragraph 37 (and the type of service issue to which they apply);
  - e. To the extent that the Communications Provider offers alternative arrangements in lieu of automatic compensation in line with paragraph 38, the nature of such arrangements (including the numbers of each type of alternative arrangement provided and their average duration); and
  - f. The number of cases in which the Communications Provider has cancelled a contract or services in respect of which the operation of this Code applies.
46. The Communications Provider shall provide the information required under paragraph 45 following the dates 6 and 12 months after implementation of this Code and yearly after that.

### **How to make a complaint and the appeals process**

47. A customer should raise any complaint under this Code in accordance with the principles and process set out in the Communications Provider's Customer Complaints Code of Practice. A Communications Provider must deal with any such complaint in accordance with such principles.

48. This includes the ability for a customer to follow the ADR process where they wish to dispute the Communications Provider's decision regarding eligibility for compensation or the amount paid under this Code.

**Consumer rights**

49. Compensation payments made under this Code of Practice do not limit any right of recourse a consumer may otherwise have at law.