

SCHEDULES

SCHEDULE 5

Section 52

APPROVAL OF REDRESS SCHEMES

Approval of redress schemes

- 1 (1) In deciding whether to approve a redress scheme, OFCOM must have regard to—
- (a) the provisions of the scheme,
 - (b) the manner in which the scheme will be operated (so far as that can be judged from the facts known to OFCOM),
 - (c) the interests of users of postal services (including, in particular, the number of other redress schemes which are, or are likely to be, approved), and
 - (d) applicable best practice.
- (2) “Applicable best practice” means the principles—
- (a) which, in OFCOM's opinion, constitute generally accepted principles of best practice in relation to schemes for providing redress to consumers, and
 - (b) which it is reasonable to regard as applicable to the scheme.
- (3) OFCOM must not approve a redress scheme unless—
- (a) the membership of the scheme is open to all postal operators,
 - (b) the independent adjudicator may require members of the scheme to provide complainants with the minimum types of redress (whether or not other types of redress are available), and
 - (c) OFCOM consider that the scheme makes satisfactory provision about the matters listed in sub-paragraph (6).
- (4) Sub-paragraph (3)(a) is not to be read as preventing OFCOM from approving a redress scheme that contains provision as to the expulsion of its members.
- (5) The minimum types of redress are—
- (a) providing an apology or explanation,
 - (b) paying compensation, and
 - (c) taking such other action in the interests of the complainant as the independent adjudicator may specify.
- (6) The matters are—
- (a) the matters about which complaints may be made (which may include contravention of a code of practice or other document),
 - (b) the independent adjudicator's duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a complaint),
 - (c) the enforcement of any requirement to provide redress imposed on a member of the scheme,

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- (d) the acceptance and handling of complaints transferred from redress schemes which have their approval withdrawn under paragraph 2, and
- (e) the provision of information by the independent adjudicator to the persons within sub-paragraph (7)^{F1}.....

(7) The persons are—

- (a) OFCOM,
- (b) persons carrying out functions under other redress schemes that apply to postal operators,
- ^{F2}(c)
- (d) the Secretary of State,
- [^{F3}(e) Citizens Advice,
- (f) Citizens Advice Scotland,
- [^{F4}(fa) Consumer Scotland,] and
- (g) the General Consumer Council for Northern Ireland.]

(8) In this paragraph “the independent adjudicator” means the person mentioned in section 52(2) who investigates and determines the complaints.

Textual Amendments

- F1** Words in Sch. 5 para. 1(6)(e) omitted (1.4.2014) by virtue of [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 13(7)(a)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F2** Sch. 5 para. 1(7)(c) omitted (1.4.2014) by virtue of [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 13(7)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F3** Sch. 5 para. 1(7)(e)-(g) substituted for Sch. 5 para. 1(7)(e)(f) (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 13(7)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F4** Sch. 5 para. 1(7)(fa) inserted (13.1.2022) by [The Consumer Scotland Act 2020 \(Consequential Provisions and Modifications\) Order 2022 \(S.I. 2022/34\)](#), art. 1(1), **Sch. para. 8(3)** (with art. 5)

Commencement Information

- I1** Sch. 5 para. 1 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

Approval of redress schemes: supplementary

- 2 (1) An application for approval of a redress scheme must be made in such manner, and be accompanied by such information, as OFCOM may determine.
- (2) The person who administers an approved redress scheme must notify OFCOM of any change to the scheme.
- (3) That notification must be given before the end of the period of 14 days beginning with the day on which the change is made.
- (4) OFCOM may withdraw their approval of a redress scheme, and may do so generally or in relation to complaints of a description specified by OFCOM.

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- (5) OFCOM may, in particular, specify complaints by reference to the date on which they were made.

Commencement Information

I2 [Sch. 5 para. 2](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

Procedure for refusing or withdrawing approval

- 3 (1) Before refusing or withdrawing their approval of a redress scheme, OFCOM must give the person who administers the scheme (“the scheme administrator”) a notice—
- (a) stating that they propose to refuse or withdraw approval,
 - (b) giving the reasons for the proposed refusal or withdrawal, and
 - (c) specifying a period within which representations about the proposed refusal or withdrawal may be made.
- (2) That period must be at least one month beginning with the day after the day the notice is given.
- (3) OFCOM must give notice (a “decision notice”) to the scheme administrator of—
- (a) OFCOM's decision on a proposal to refuse or withdraw approval, and
 - (b) the reasons for their decision.
- (4) If the decision is to withdraw approval, OFCOM must also give notice of their decision and the reasons for it to the Secretary of State.
- (5) The scheme administrator must give a copy of a decision notice to each member of the scheme.
- (6) If OFCOM decide to withdraw approval, the withdrawal has effect in accordance with, and from the date specified in, the decision notice.

Commencement Information

I3 [Sch. 5 para. 3](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

Changes to legislation:

There are currently no known outstanding effects for the Postal Services Act 2011, SCHEDULE 5.