

GENERAL GUIDANCE NOTE

Complaint-handling process

Who should read this?

All Network operators and providers involved in the provision of premium rate services (PRS) to consumers.

Part 3 of the Code of Practice 0 deals with responsibilities spread across the PRS value chain, and it makes clear all parties bear some responsibility for the provision of a positive consumer experience when matters arise during or after the use of such services.

What is the purpose of the Guidance?

To assist Network operators and providers by clarifying PhonepayPlus' expectations in relation to consumer complaint handling, by way of the following:

- Clearly defining the roles and responsibilities of Level 1 and Level 2 providers in the chain;
 - **Note:** While consumer facing Network Operators fall outside of PhonepayPlus' regulation and therefore are not obliged to comply with the Code (unless they are also Terminating Network Operators – these are subject to PhonepayPlus regulation and the Code), they are included in this Guidance as their role forms an essential part of the complaint-handling process.
- Setting out some desired consumer outcomes, along with an example of how to deliver the 'minimum standard of customer care' that would achieve them.

Obligations on providers are set out in paragraphs 2.6 and 3.1.1(d) of the [PhonepayPlus Code of Practice](#). At 3.1 it states:

3.1 General responsibilities

All Network operators, Level 1 and Level 2 Providers must:

- 3.1.1 ensure that PhonepayPlus regulation is satisfactorily maintained by;
 - (d) taking all reasonable steps to ensure that consumer complaints are resolved quickly and fairly and that any redress is provided quickly and easily.

It is important to consider what role each party plays in relation to complaint handling. While network operators and providers may have contractual arrangements in place assigning responsibility proportionately, parties need to consider how the consumer is likely to engage with them in the result of an issue arising.

Where possible parties should have a clear idea of how complaints are handled by others in the value chain and ensure they are equipped to assist where necessary to ensure consumer complaints are resolved quickly and fairly whatever the circumstances.

What are the key points?

- This General Guidance Note ('the Guidance') sets out PhonepayPlus' expectations with regard to the complaint-handling process for all providers/services.
- Responsibility for complaint handling lies with the Level 2 provider in the first instance.
- Network operators (including customer facing ones) and/or Level 1 providers are expected to step in and take over the process in situations where a Level 2 provider has neglected its duties in any way.
- Separate information on complaint-handling processes for 'broadcast' is set out in section 5 below.

1. Desired outcomes – what we believe good complaint handling should look like

- 1.1 Consumers have certain expectations when, in their mind, an issue has arisen that gives them cause for complaint. We believe that these expectations give rise to certain outcomes, as follows:
- Pursuing a complaint should not unduly cost the consumer in terms of time or money.
 - Consumers should have to make as few calls as possible in order to find redress.
 - Providers should be courteous and respectful to consumers at all times.
 - Consumers should be kept informed as to the status of their complaint.
 - Providers should make every reasonable effort to resolve a consumer's complaint.
 - The Level 2 provider should take the lead in providing redress (in the case of a valid complaint). Where a Level 2 provider does not, and the Network operator and/or Level 1 provider is aware of a problem, they must take the initiative as appropriate and proactively seek to provide redress.
 - Consumers must have recourse to an objective third party to resolve disputes.

2. Complaint-handling process

- 2.1 The Code focusses on quick and easy resolution of complaints. This involves consumers having access to both information and a process by which issues can be identified, shared, and considered.

Access to complaint handling process

- 2.2 Unlike previously, the Code no longer requires that a non-PRS telephone number is available, and promoted to consumers, in all circumstances. However PhonepayPlus still expects a non-PRS phone number to be available in circumstances where it is the most appropriate and effective means for customers to gain access to support.

Appropriate means of access

- 2.3 Providers must consider a number of factors before settling on an appropriate means of access for complaint handling, or customer care. This includes:

- The means of access to the service, including any security measure adopted – for example, services accessed by smartphone or tablet may involve just a phone number to access it or may require users to register an email account.
- The nature of the problems that may arise, regardless of likelihood, and the type of remedial support that may be necessary – for example, a web-based service may develop a technical fault and those issues may also prevent affected individuals using a web-based complaint handling system.
- Intuitive design – for example, where the service design allows for easy access to the start point of any complaint handling process as soon as the issue is identifiable.

Effective

- 2.4** The Code refers to the ability *“to have complaints resolved quickly and easily...and that any redress is provided quickly and easily”*. Complaint handling is therefore not just about gathering information from a complainant, but being able to resolve matters fully and to provide a proper form of redress.
- 2.5** Just by using a non-PRS number for the purpose of receiving complaints does not necessarily mean the complaint handling process will be effective. Traditionally it has enabled consumers to explain problems in their own words and to answer any questions to enable providers to resolve matters effectively. Any alternative means of access to complaint handling processes must address the challenges with delivering high quality customer care.
- 2.6** When developing the process, providers ought to consider:
- How the data is gathered,
 - How it is stored,
 - How issues are reviewed or assessed, and
 - How the matter is escalated (where necessary).
 - The process ought to operate in such a way that gives the complainant confidence that their complaint is being properly considered, and dealt with in a timely manner.
- 2.7** Any defects identified should lead to amendments to the complaint handling process.
- 2.8** For example, in light of the consumer not being in conversation with a helpline operator, to be effective, any alternative process should give initial feedback or provide an acknowledgement of the complaint. This must be presented in some form shortly after the initiation of the complaint, immediately if possible.
- 2.9** The alternative process should also ensure it results in swift redress being provided.
- If the information needed to begin a claim for financial redress such as for a refund – is known, the process should be designed to gather such information at the first feasible opportunity.
 - Where any process has multiple steps, and some of those are unreasonable, it is likely to be considered an ineffective process and in breach of the Code.

Where consumers contact someone other than the Level 2 provider

- 2.10** PhonepayPlus recognises that issues can come to the attention of the consumer at different times and in different circumstances.

- Sometimes the issue will be identified while the consumer is using the service itself, and will require assistance in the context of dealing with a fault or getting help in making further or better use of it.
- Sometimes it may be an issue that is identified at the point when the charges are considered, such as when a message is received on the consumer's phone; or when the consumer inspects their phone bill.

2.11 Depending on the context, the behaviour of the consumer in raising a complaint is likely to be different. Level 2 providers must equip both the consumer and relevant third parties, such as consumer facing Network operators, in such a way that enables the consumer to seek effective redress for issues when they arise. This may involve:

- Arrangements to liaise directly with consumer facing networks (such as BT, Virgin, Sky and the mobile networks) to ensure that they have the information to quickly redirect consumers who contact their phone provider first (usually in response to their phone bill) to the Level 2 provider.
- Where the Level 2 provider has a clear complaint-handling process, clear channels of communication with such third parties need to be established so that consumers can be directed to start that process quickly and easily.

2.12 Ultimately, consumers will contact the easiest person to find by the most convenient means available to them. This will be based on:

- Their knowledge of the service,
- Information given to them during their previous use and engagement with it, and
- Their ability to locate additional information where necessary.

2.13 Arguably the first step in the complaint-handling process involves the Level 2 provider giving clear branding for the service and identifying themselves as the service operator. This means any gaps in the consumer's knowledge, such as specific helpline numbers or email contacts to seek support, can be addressed by the consumer looking up such information on an internet search engine or by calling their Network operator or PhonepayPlus and asking about the service or provider by name.

2.14 Even though the Code does not specifically require the Level 2 provider to run a call centre and have a non-PRS number in place and promoted to consumers, this may still be the most effective means of giving consumers access to redress.

2.15 The reason for this may be the journey taken by the consumer prior to them seeking direct contact with the Level 2 provider. If they have called their Network operator first, they are already on the phone and may wish to be given a telephone number to make another call, this time directly to the provider who can deal with the issue. If a phone number is available, it should be promoted transparently to consumers using the service in order that they can take the option of noting it and calling the provider directly without seeking assistance from the network operator first.

2.16 However, where a service involves email-based account security or identification; or it operates in a manner that includes internet based communication with other users or service operators – then it is likely consumers will consider a similar email or internet based solution first when accessing any complaint-handling process. If it is quick and easy to make a complaint, and gain appropriate redress, it is likely to be compliant with the Code.

3. Suggested timetable for calls to be made (an example process)

- 3.1 Some complaints will take longer to process than others – either because the issue is more complicated than normal, or perhaps because, for reasons outside of the provider’s control, they are unable to act as quickly as they would like. In practice, a PhonepayPlus Tribunal is likely to look at the facts of each case, and decide on its merits. This is why we have purposely chosen not to give any prescriptive timelines for calls to be made within the example process shown above.
- 3.2 However, we think it may be helpful to offer some advice on what we expect it to look like in a typical case:
- Where a consumer has contacted their Network operator and questions the legitimacy of the charges, we believe that it is reasonable for the Network operator to refer the consumer to the provider directly to seek redress. However, we expect the Network operator to invite the consumer to call them back after **five working days**, if a suitable response is not given by the provider.
 - Where the consumer chooses to leave a message or send an email – and a resolution cannot be made immediately – they should receive a ‘holding response’ within **one working day**. Regardless of the initial contact, where a Level 1 or Level 2 provider becomes aware of a problem, we believe that a resolution should be offered to that consumer within **five working days**.
 - Where a resolution has not been reached with the Level 2 provider, and the consumer has resorted to calling the MNO back, the Level 1 provider (or MNO) should contact the consumer within **five working days** with a proposed resolution.

4. ‘Basic rate’ call charges requirement

- 4.1 Since 13 June 2014, regulations introduced by the Department for Business, Innovation and Skills (BIS)¹ apply a limit to the cost to consumers accessing customer helplines. The regulations do not demand that companies or organisations provide a helpline, but where they do provide one, paragraph 41 of the Regulations prohibits customer helplines charging consumers at any more than basic rate for calls made in relation to their purchases.
- 4.2 This precludes the use of numbers on the 09, 087 and 084 ranges to operate a telephone line for consumer contact about a product already purchased, whether charged via PRS or not, or to cancel a contract.
- 4.3 BIS has produced guidance in relation to the Regulations, which can be accessed via the gov.uk website². PRS providers should pay particular attention to Section J of this guidance.

What about PRS that provides technical support?

- 4.4 BIS guidance sets out that this need not come under Regulation 41, provided it is clear to the consumer that the line exists to provide technical support for a product already purchased (e.g. a laptop, tablet, software, machinery, white goods or other electronics), with that technical support being charged separately from the original purchase via the cost of the call.

¹ Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

- 4.5** Technical support lines which carry a premium rate charge must not provide the facility to complain about a product already purchased.

What about 087 services which provide something other than a consumer complaint facility?

- 4.6** Where an 087 number is used to provide a PRS (such as chat, conference call facilities, data capture – i.e. receiving an order and/or payment for a product from consumers who call, or other forms of entertainment and information) its use will be compliant with the Regulations as long as no consumer complaint facility is provided on the 087 number.
- 4.7** However providers of the such PRS will no longer be permitted to use any other 087 or other premium rate number, to receive complaints about the premium rate service.
- 4.8** PhonepayPlus recommends that Level 2 providers who use 087 numbers do the following:
- Review their current services against the BIS Guidance in order to ascertain their likely compliance with the Regulations.
 - Take appropriate steps to alter any services which are not compliant, particularly in respect of complaint handling arrangements for 087 services, or transfer services to a compliant number range.
 - Ensure that premium rate services continue to operate in full compliance with outcome 2.6 of our Code relating to 'complaint handling', and relevant rules, using suitable number ranges for complaints handled via the telephone.
- 4.9** PhonepayPlus also recommends that Level 1 providers and Network operators that operate and provide numbers for the service types outlined above note the Regulations and conduct appropriate due diligence and risk control to ensure they are not facilitating unlawful practices through the operation or provision of numbers.

5. Guidance on what might be expected from Level 2 providers in relation to Rule 2.6.6

- 5.1** Rule 2.6.6 of the [PhonepayPlus Code of Practice](#) states the following:

2.6.6

Level 2 providers must provide upon request to PhonepayPlus such information that allows examination of how they have handled any consumer complaint.

- 5.2** When considering whether a Level 2 provider has dealt with a complaint in line with the relevant Code Outcome, PhonepayPlus is likely to request the following evidence from that provider:
- A record of the initial contact from the consumer – if this is a letter or email, then our expectation is that a copy will be provided. If the initial contact is through a telephone call, then a recording of the call should ideally be provided, or in cases where no recording is available, a time-logged record of the call, consumer details and a clear description of the consumer's issue.
 - Records of any and all subsequent activity in relation to the consumer's complaint once it has been initially logged – this would include any internal emails relating to the complaint, a record of any key decisions or actions taken, a record of all subsequent contact with the consumer (whether via letter, email or call) and any data records which have been

referenced in relation to the consumer's complaint (e.g. call recordings, records showing the receipt of MO (mobile originating) messages or the dispatch of MT (mobile terminating) messages, records showing verifiable consent to web-based charging).

- Records of any final decision made in relation to the consumer's complaint, and of any refund issued (e.g. when any refund was issued, how and for what amount) – we would consider it helpful to record whether the consumer agreed with the decision, or not.

5.3 In order to ensure that such records are available to PhonepayPlus for a reasonable period while carrying out any further investigation or enquiry, providers should retain these details for three months after the consumer's initial complaint.

6. Guidance on ‘broadcast’ complaint-handling processes

- 6.1** With regard to complaints made about services operating within the ‘broadcast’ medium (e.g. TV voting), where a complaint relates to both the editorial and the premium rate element of a service or promotion, our expectation is that the broadcaster will apply a complaints resolution process to the premium rate element which complies with any minimum requirements as set out in the rules in [PhonepayPlus Code of Practice](#) around ‘Complaint handling’ (paragraph 2.6).
- 6.2** To be clear, PhonepayPlus’ rules on complaint handling would not apply to complaints which do not relate to any alleged breach of [PhonepayPlus Code of Practice](#) (for example they would not apply to purely editorial complaints that do not involve any element related to PRS.). Consumers should not be led to assume otherwise. Consumers who have complaints about purely editorial content should refer to the Ofcom Broadcast Code:
<http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>

The role of General Guidance

General Guidance does **not** form part of the Code of Practice; neither is it absolutely binding on PhonepayPlus’ Code Compliance Panel Tribunal (‘the Tribunal’). However, we intend for it to assist all Network operators and providers as to how compliance with the Code can be achieved.

Network operators or providers are free to disregard Guidance where they feel that the same standard and expectation of consumer protection can be met by some other means. Should consumer harm occur, the Tribunal may examine the provider’s alternative actions (including no action), and whether those actions have achieved compliance with the Code. If they have not taken any action to comply with the Code, then the behaviour is likely to be regarded as a serious breach.