

Making a formal complaint to the CMO

One of the CMO's responsibilities on behalf of the OBARCC is to handle complaints from communications providers (CPs) if they suspect that Openreach is in breach of the Commitments or the supporting Governance Protocol.

The CMO investigates any relevant complaints it receives and reports its findings to the OBARCC, which decides on what action, if any, will result from the complaint.

CPs are welcome to raise queries or issues informally with the CMO, if they do not meet the criteria set out below for a formal complaint.

Complaints from within Openreach and BT

The CMO reports quarterly to the OBARCC on complaints relevant to Openreach made to BT's confidential helpline by Openreach or BT employees. The CMO can follow up any relevant internal complaint irrespective of the outcome of an investigation elsewhere in BT or Openreach. Relevant findings will be reported to the OBARCC so that it can take any necessary action.

CMO guidelines for external complaints from Communications Providers about Openreach's compliance with the Commitments

Introduction

1. Following Ofcom's Strategic Review of Telecommunications, BT provided Commitments to Ofcom as detailed on the link below.

<https://www.bt.com/about/bt/policy-and-regulation/our-governance-and-strategy/our-commitments>

2. The OBARCC and CMO have a number of specific obligations regarding complaints. These guidelines focus solely on the CMO's process for handling formal external Communications Provider complaints.

3. The guidelines apply only to Openreach's compliance with the Commitments and Governance Protocol, not to Openreach or BT's wider compliance and regulatory framework, or to Openreach or BT's overall service levels.

The CMO's obligations for handling external complaints

5. Section 2.20 and 7.6 of the Commitments supporting Governance Protocol sets out the responsibilities of the OBARCC regarding CP complaints:

2.20 To ensure that the OBARCC will, among other things, report regularly to the Openreach Board on, and conduct an annual review of, the compliance by the Openreach Division and Openreach Limited with the Commitments and this Governance Protocol and its handling of customer

complaints and representations, and will provide to Ofcom and publish annually, a report on its findings.

7.6 The OBARCC's duties in respect of the Openreach Division will include:

- (c) review complaints relating to the compliance of Openreach Limited and/or the Openreach Division with the Commitments and this Governance Protocol including those made by: (i) employees of BT plc or Openreach Employees to BT's confidential helpline and access routes established for general purposes; (ii) Openreach's customers; and/or (iii) Ofcom, and determine in each case whether a breach has occurred and whether it is trivial or non-trivial;
- (d) report back to complainants regarding the outcome of their complaints including whether the OBARCC considers that a breach by Openreach Limited and/or the Openreach Division of the Commitments or this Governance Protocol has taken place;
- (e) report regularly to the Openreach Board on the compliance by Openreach Limited and/or the Openreach Division with the Commitments and this Governance Protocol including details of breaches and complaints. These reports will be included in the minutes of the relevant Openreach Board meeting;
- (f) conduct an annual review of the compliance of Openreach Limited and/or the Openreach Division with the Commitments and this Governance Protocol and its handling of customer complaints and representations, approve and provide to Ofcom a detailed report (the **Openreach Report**) on the OBARCC's findings, and publish annually a summary of the Openreach Report

6. The Commitments themselves do not prescribe how the OBARCC or CMO should handle complaints but the process set out in these guidelines is designed to produce efficient and effective resolution of complaints for both the complainant and for Openreach and BT.

7. The allocated CMO Investigations Manager is responsible for ensuring that all complaints are handled in accordance with these guidelines.

Submission standards and the CMO enquiry phase

8. The CMO will acknowledge all complaints it receives via letter or email within two working days. Each complaint the CMO receives will be subject to initial consideration during an enquiry phase to ensure it meets the CMO's submission requirements and, if necessary, for the Investigations Manager to seek further and better information in respect of the complaint (see Annex 1 for more details).

9. Having considered each complaint received, the CMO will initiate investigations into a complaint from a Communications Provider where the complaint meets the following criteria:

- The complaint is about compliance with the Commitments;
- The complainant is able to identify both the specific Commitment or Commitments concerned and the nature of the compliance issue raised.
- A senior officer of the Communications Provider provides a statement supporting the complaint and confirming that the facts submitted are correct and complete to the best of their knowledge.

10. The submission guidance in Annex 1 also makes clear that a CMO investigation will generally be more effective if the complainant:

- Has attempted to resolve the issue using appropriate escalations routes, including via Openreach management.
- Provides reasonable prima facie evidence in support of the complaint.
- Where appropriate, provides evidence on any impact of the alleged breach on their business (since this might assist the CMO and OBARCC in judging the materiality of the alleged breach).

11. Under the Commitments the OBARCC has no remit in respect of 'conduct of claims or litigation'. The CMO will liaise with Openreach as part of the CMO's consideration of any complaint which is also the subject of a claim or litigation, and may decide to await the outcome of that claim or litigation before considering the complaint further.

12. The CMO will aim to complete the enquiry phase within 10 working days of acknowledging the complaint and will inform the complainant whether or not the CMO is opening an investigation. At this stage, the CMO will inform Ofcom of the complaint which it has considered and whether an investigation has been opened.

13. When a complaint, following consideration by the CMO, does not result in an investigation, the CMO will explain its decision to the complainant and, in appropriate circumstances, suggest an alternative means of resolving the issue. For example, a complaint about Openreach's regulatory compliance which falls outside the Commitments, may be addressed to Openreach's Director of Regulatory Compliance.

14. Complainants have no right to appeal the CMO's judgment on whether the complaint meets its submission standards, though they are free to resubmit a complaint once it is amended to take into account the CMO's comments.

Completing an investigation

15. The CMO will issue guidance to the complainant on how long an investigation is likely to take at the conclusion of the enquiry phase. The CMO will aim to complete all investigations and report the outcome of the case to the OBARCC within 2 months of opening the investigation phase. Complex cases may take longer than this.

16. The CMO will issue guidance to the complainant if it is clear at the outset that the investigation will take longer or if it later believes it cannot complete the investigation within 2 months.

17. The CMO will keep Openreach, the complainant and Ofcom informed about the progress of the complaint on a regular basis. The CMO's Investigations Manager will be the main point of contact for complainants, Openreach and Ofcom.

The outcome of an investigation

18. In accordance with the Commitments, the CMO has to report its decision to the OBARCC, and once the OBARCC has noted the decision or responded to the CMO, the CMO will report back to the complainant on the action, if any, taken by the OBARCC as a result of the complaint.

19. There are, therefore, a range of possible outcomes to complaints brought to the CMO by Communications Providers. The following is an indicative, rather than exhaustive list:

- The OBARCC has concluded that there are no grounds for action arising from the complaint, since the Commitments are being delivered by Openreach and / or BT as required.
- The OBARCC has concluded that there are no grounds for action since Openreach and / or BT has already taken remedial action in response to the Communications Provider's complaint.
- The OBARCC has concluded that although Openreach and / or BT is complying with the Commitments, it has recommended that Openreach and / or BT provide clearer advice to staff about a particular issue arising from the Commitments.
- The OBARCC has recommended remedial action to Openreach or / and BT to ensure compliance with the Commitments and Ofcom and the Openreach Board will be informed of breaches. The CMO may also be able to report on Openreach and BT's response to the OBARCC.

19. The CMO will inform the complainant of the action, if any, taken by the OBARCC as a result of the complaint. Ofcom will also be informed.

20. Annex 2 provides a flowchart representation of the complaints handling process.

Publishing details of investigations

21. The Commitments do not require Openreach to publish or otherwise disclose confidential information, other than to Ofcom. The details of a complaint are considered to be confidential, in relation to both Openreach and the complainant. The OBARCC believes that it is likely that a complaint will be resolved more quickly if it is handled on a confidential basis. Accordingly, the CMO and OBARCC will not make public information about the progress of individual complaints, beyond the complainant, Openreach, BT (if appropriate) and Ofcom unless on a case by case basis the complainant indicates a preference for doing so and subject to any legal or contractual responsibilities that Openreach may have.

22. If complainants are not satisfied with the CMO's complaints process, they can submit their complaint to Ofcom at any point during the process.

Annex 1: Format for submitting a complaint to the OBARCC

1. Complaints should be submitted in writing to:

The Investigations Manager
Commitments Monitoring Office
pp 3rd Floor Kelvin House
123 Judd Street
London WC1H 9NP

Or email commitments.monitoring.office@openreach.co.uk

2. The Investigations Manager can also provide informal advice on how to submit a claim to the CMO or on which alternative complaints procedures are available if the CMO is not an appropriate route.

3. The CMO will inform Openreach when a complaint has been received which relates to a product covered by the Commitments. The CMO will also share relevant details of the complaint with Openreach in order to assist the CMO's investigation.

4. Where the complaint includes aspects relating to BT's compliance with the Commitments, the CMO may share the complaint details with other relevant parts of BT, including the BT Compliance Committee (BTCC) and the Commitments Assurance Office (CAO).

5. Unless the complainant specifically requests otherwise, the CMO will inform Openreach/BT of the business name of the complainant. The CMO recognises that in some exceptional cases the complainant may wish to request anonymity (where for example the complainant feels disclosure might prejudice ongoing commercial relations). In such exceptional circumstances the complainant must recognise that requesting anonymity might hinder the effectiveness and timeliness of the CMO's investigation.

6. A submission should contain the following information:

- A summary of the complaint.
- Details of the relevant part or parts of Openreach relevant to the complaint.
- Details of the complainant's relationship with Openreach.
- A contact name of the manager within the complainant with whom the CMO shall liaise in respect of the complaint.

6. The investigation of a complaint is likely to be significantly assisted if the complainant is able to provide additional information along the following lines:

- Confirmation of the Openreach service, product or process concerned, with particular reference to the specific requirement in the Commitments or supporting Governance Protocol.

- An explanation of the reasons for the complaint and reasonable prima facie evidence in support.
- Evidence of an attempt to resolve the complaint with Openreach, including details of escalations or discussions with Openreach management.
- How the complaint has affected the complainant's business.
- The remedy which the complainant is seeking and any solution(s) which the complainant wishes to propose for addressing the complaint.
- Other relevant factors such as related complaints or other dependencies.

Annex 2: CMO complaints handling process chart

