

Ofcom's decision-making principles

Objective of the Schemes

To resolve disputes between consumers and communications providers (CPs).

Guiding Principles

In doing so, the Schemes should consider decisions in accordance with the following principles:

- a) Independence
- b) Fairness
- c) Impartiality
- d) Openness
- e) Transparency
- f) Effectiveness
- g) Accessibility
- h) Consistency
- i) Accountability

Decision Guidelines

In achieving a fair and reasonable outcome for both parties, the Scheme's decision-maker will:

- i. Be able to demonstrate that they have treated the CP and the consumer equally fairly so that neither is unduly disadvantaged.
- ii. Remain objective and shall promote neither the position of the consumer nor that of the CP.
- iii. Consider the evidence presented by the parties, the specific circumstances, and other information directly relevant to the dispute and shall consider whether to request further information from either party.
- iv. Recognise that both parties must, where it is in their possession, provide evidence relevant to the matters in dispute to support their position.

- v. Give equal consideration to the word of the consumer and the word of the CP.
- vi. Be mindful of, but not bound by, past decisions or similar cases.
- vii. Where appropriate take account of, but not rely on, the usual behaviour or practices of either CPs or consumers.
- viii. Have regard to the relevant regulations, law and terms and conditions.
- ix. Ensure that the outcome will be based on the balance of probabilities in the absence of conclusive evidence and give full reasons for any decision.

The Schemes will aid the consistent application of these Decision Guidelines by working from time to time with Ofcom and one another on examples of typical and testing cases.

Compensation Guidelines

Pre-requisites for making an award

With all types of compensation awarded the decision-maker should clearly express:

- i. What breach has triggered the award
- ii. Why this breach is sufficient to justify an award
- iii. Factors affecting the size of the award
- iv. The precise level of the award

ADR schemes must have the appropriate policies in place regarding compensation levels. Schemes must apply these policies consistently and provide internal guidance to staff on how such policies should be interpreted.

Setting the level of an award

The level of compensation awarded will be guided by a common approach to be used by the Schemes and developed by the Schemes and Ofcom based on current practice and principles.

It should be noted that this framework is intended to serve as an aid to the decision-maker, through creating common reference points. The precise sums awarded should always be left to the discretion of the decision-maker.