

Ofcom and the Communications Consumer Panel Memorandum of Understanding

The Consumer Panel was set up in accordance with section 16 of the Communications Act 2003 as part of Ofcom's duty to establish and maintain effective arrangements for consultation with consumers.

This Memorandum of Understanding establishes the principles that both Ofcom and the Consumer Panel agree to adopt in their relations and dealings with each other. It supplements, but does not replace, the statutory framework and affirms the independence of the Panel from Ofcom. It is designed to ensure an effective, efficient and transparent working relationship between the two parties, to enable the Panel to provide the high quality evidence-based advice that the Ofcom Board requires and thus to serve well the interests of the broad range of people as consumers and citizens in the broadcasting, telecommunications and spectrum markets (with the exception of citizen issues surrounding content which are the responsibility of the Ofcom Content Board).

Five key principles of the Memorandum:

Consultation and advice

Ofcom and the Consumer Panel agree to engage early and often in full, frank and open dialogue on issues of emerging or current consumer and citizen concern

Collaboration

Ofcom and the Consumer Panel agree to adopt a collaborative approach to furthering consumer and citizen interests, using resources efficiently

Openness

Ofcom and the Consumer Panel agree to equip each other with sufficient knowledge of respective policies, statements, positions and advice in advance of their reaching the public domain

Information provision and confidentiality

Ofcom and the Consumer Panel agree to maintain and make available relevant and up to date information of relevance to consumer and citizen interests, and to respect the confidentiality of all information

Resource provision including budget

Ofcom and the Consumer Panel agree to ensure appropriate resources are available to develop and maintain effective working arrangements

Consultation and advice

Principle – to engage early and often in full, frank and open dialogue on issues of emerging or current consumer and citizen concern

Ofcom undertakes to:

- Identify areas of its policy and practices that affect consumers and citizens in the markets with which the Panel is concerned, assess the extent of the impact and consult the Panel where policies or practices have or may have a particular impact on consumers or citizens
- Offer to consult the Panel throughout in its deliberations on policies and practices with particular consumer or citizen impact well in advance of the final stage of Ofcom's policy-making processes
- Consider advice and research from the Panel in the formation of its regulatory judgements.
- Provide a written response (in the form of a letter or memorandum) to all written representations made by the Panel before publication of the policy/policies.
- Written advice presented to the Board will be responded to in writing by the Chairman of Ofcom Board. Written advice to policy colleagues will be responded to by policy colleagues. Copies of all such responses will be copied to the Consumer Panel Manager.
- As and when appropriate, publish advice or opinion presented by the Panel and Ofcom's response
- Summarise in its Annual Report advice or opinion presented to Ofcom by the Panel.
- Ensure that arrangements to allow the Panel reasonable access to the Ofcom Chairman and Main Board are in place

Consumer Panel undertakes to:

- Identify areas of consumer or citizen concern in the markets regulated by Ofcom and to provide high-quality, evidence-based advice (as appropriate) to Ofcom
- Consider specific requests for advice from Ofcom on consumer or citizen interests in relevant markets
- Make written representations to the Ofcom Board and policy colleagues in a timely manner to enable Ofcom to take account of the Panel's advice prior to making decisions on, or publication of, any policy/policies. All such representations should be copied to the Corporation Secretary
- Publish on its website its advice and Ofcom's responses as soon as Ofcom has published the policies to which they refer

- Engage in early dialogue with Ofcom to assist with its deliberations on policies and practices in areas identified by the Panel as consumer or citizen priorities
- Ensure that arrangements are in place to allow Ofcom colleagues reasonable access to the Consumer Panel

Collaboration

Principle – to adopt a collaborative approach to furthering consumer and citizen interests using resources efficiently

Ofcom undertakes to:

- Work closely with the Panel, especially to minimise duplication of effort, including:
 - Shared undertaking of research where appropriate
 - Providing early warning of policy initiatives
 - Providing early notice of areas of emerging consumer or citizen concern
 - Forging appropriate links and developing effective working arrangements between Ofcom’s Advisory Committees for the Nations and for Older and Disabled People and the Panel

Consumer Panel undertakes to:

- Work closely with Ofcom, especially to minimise duplication of effort, including:
 - Shared undertaking of research where appropriate
 - Providing early warning of Panel initiatives
 - Providing early warning of areas identified by the Panel as consumer or citizen priorities
 - Providing early notice of areas of emerging consumer or citizen concern
 - Providing early notice to Ofcom of Projects the Panel intends to audit using the Consumer Interest Toolkit. The Panel will not audit those Projects that Ofcom undertakes to audit using the Consumer Interest Toolkit.
 - Advising Ofcom staff of the most appropriate means of seeking input from the Panel and the Panel’s interests
 - Forging appropriate links and developing effective working arrangements between the Panel and Ofcom’s Advisory Committees for the Nations and for Older and Disabled People

Openness

Principle – to equip each other with sufficient knowledge of respective policies, statements, positions and advice in advance of their reaching the public domain

Ofcom undertakes to:

- Provide the Panel with advance notice of emerging issues of consumer or citizen concern
- Provide the Panel with advance notice of statements of policy and practices that may impact on consumers or citizens, including press releases and other media activity, consultations and other public documents
- Consult the Panel Manager (currently Georgia Klein) before referring to the Panel or its work in public documents and to allow, if appropriate, a pre-publication right to respond.

Consumer Panel undertakes to:

- Provide Ofcom with advance notice of emerging issues of consumer or citizen concern identified by the Panel
- Provide Ofcom with advance notice of statements of Panel policy and positions, including press releases, and other media activity, consultations and other public documents
- Consult Ofcom before referring to it in public documents and to allow, if appropriate, a pre-publication right to respond

Information provision and confidentiality

Principle – to maintain and make available relevant and up to date information of relevance to consumer and citizen interests, and to respect the confidentiality of all information

Ofcom undertakes to:

- Provide the Panel with all information that it reasonably requires to carry out its functions, unless there are matters (such as a need to preserve commercial confidentiality or a legal or contractual requirement) that make it reasonable for Ofcom to withhold disclosure
- Be responsive to information requests from the Panel including prompt provision of information in readily accessible formats
- When appropriate, alert the Panel to the degree of confidentiality it expects the Panel to accord to (written and oral) information
- Classify all written material according to any confidentiality marking system agreed with the Panel

- Respect the confidentiality of any written and oral information provided to it by the Panel

Consumer Panel undertakes to:

- Have regard to the proportionality of any requests for information from Ofcom and to respect the constraints on information provision
- Allow Ofcom access to the information and views the Panel may collect on consumer or citizen issues from outside sources e.g. Panel research, views of consumer/citizen representatives/organisations, other regulators/ombudsman and trade bodies unless there are matters (such as a need to preserve commercial confidentiality or a legal or contractual requirement) that make it reasonable for the Panel to withhold disclosure
- When appropriate, alert Ofcom to the degree of confidentiality it expects Ofcom to accord to (written and oral) information.
- Respect the confidentiality of any written and oral information provided to it by Ofcom.

Resource provision including budget

Principle – to ensure appropriate resources are available to develop and maintain effective working arrangements

Ofcom undertakes to:

- Agree with the Panel an annual budget sufficient to allow it to fulfil its terms of reference including allowance for Panel member fees, agreed expense, research, publications costs and other items
- Provide timely reports of expenditure to enable the Panel to monitor its budget effectively
- Ensure a senior executive Board member takes responsibility for appropriate support provision for the Consumer Panel and acts as key contact (currently Ed Richards)
- Provide an appropriate and agreed number of suitably qualified colleagues to support the Panel including policy/research support, media support and an independent secretariat
- Manage the colleagues appointed to carry out the above functions whilst respecting their need to have regard to the independence of the Panel.

Consumer Panel undertakes to:

- Monitor, manage and work within the budget agreed with Ofcom in accordance with Ofcom's own accounting procedures
- Oversee the quality of the Ofcom colleagues' work in supporting the Panel and to provide any information necessary for performance reviews etc
- Liaise with the Corporation Secretary to obtain Ofcom Board approval for the process for the appointment of new Panel Members and for obtaining

- Ofcom Board and Secretaries of State approval for the appointment of new or renewed Panel Members
- Liaise with the appropriate Ofcom senior executive in the efficient running of the Panel's activities

Approved by the Consumer Panel at it's meeting on 18 July 2006.

Approved by the Ofcom Board at it's meeting on 25 July 2006.