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# **Protecting access to emergency organisations when there is a power cut at the customer's premises**

Guidance on General Condition A3.2(b)

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## About this document

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A critically important function of the telephone network is to allow people to contact the emergency services. For this reason, there is a regulatory obligation on communications providers (providers) in General Condition A3 to take all necessary measures to ensure uninterrupted access to emergency organisations for their customers.

Following a public consultation, this document confirms Ofcom's final guidance on how providers can meet their obligations as customers move from traditional landline services to phone services over a broadband connection (known as 'Voice over Internet Protocol' (VoIP)). The underlying requirements have not changed and the guidance is not intended to be the definitive guide on how providers should comply with the obligations. Instead, the guidance sets out Ofcom's expectations on the measures they should have in place to ensure customers making calls over broadband are able to make emergency calls in the event of a power cut at their premises. It takes the form of four Principles for providers to follow.

In light of the specific circumstances of each case, Ofcom will take account of providers' regard to these four Principles when assessing whether they are meeting their obligations.

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# 1. Executive summary

- 1.1 Historically, most landline call services have been delivered via copper wire connections over the public switched telephone network (PSTN). Traditional corded telephones on these lines can still be used to make calls when there is a power cut at the premises because the lines are powered from the local telephone exchange.
- 1.2 However, the UK's traditional telephone network will undergo substantial change in the coming years. Providers are increasingly moving away from services that rely on copper wire, to fibre broadband technology. Alongside this, the PSTN is approaching the end of its life as the availability of spare parts and engineering knowledge to maintain and repair it is decreasing. Consequently, providers with substantial PSTN infrastructure are planning to retire this network. This will take a number of years, but companies have started to prepare for the changes.
- 1.3 As a result of these developments, consumers can today take up Voice over Internet Protocol (VoIP) call services, which use a broadband connection to make calls. Over the next few years these broadband-based call services will become more common and will eventually replace traditional landline call services.
- 1.4 In the absence of other measures, calls made over broadband using VoIP-based technology will not function in a power cut, as the broadband equipment at the premises requires mains power to work. As a result, calls will only be possible if additional protection measures are put in place.
- 1.5 This raises the question as to how providers continue to meet the requirements in General Condition (GC) A3.2(b) to “take all necessary measures” to ensure “uninterrupted access to Emergency Organisations<sup>1</sup> as part of any Publicly Available Telephone Services offered” when customers are making calls over broadband.
- 1.6 In May 2018, we consulted on guidance on GCA3.2(b), which set out how providers could meet the obligation to ensure uninterrupted access to emergency organisations during a power outage for those customers using VoIP technology. The proposed guidance set out four Principles that we considered, if followed, are likely to mean that a provider is meeting that obligation.

## Consultation responses and final guidance

- 1.7 In general, respondents welcomed the greater regulatory certainty that the guidance provides, and broadly agreed with our proposals. Some respondents sought clarity on particular aspects of the guidance, and others thought elements needed to be amended to ensure they were not unduly onerous on providers. We have summarised the responses received and addressed the concerns raised within this document.

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<sup>1</sup> Defined as the police, fire, ambulance and coastguard services.

- 1.8 We have reviewed all the points raised and consider that the Principles represent appropriate and proportionate measures that providers should take in meeting their obligations. We have taken into account:
- a) the significant developments in the market for voice calls, including the fact most consumers now own and use a mobile phone and most consumers with a landline use a cordless phone;
  - b) the need to protect those customers who are reliant on their landline such as those without access to a mobile or reliable indoor mobile coverage, or who are housebound or have a greater need to call emergency organisations due to their circumstances; and
  - c) the costs and practicalities associated with undertaking the measures set out in the Principles.
- 1.9 This statement confirms the Principles we set out in our consultation. In summary:
1. Providers should have at least one solution available that enables access to emergency organisations for a minimum of one hour in the event of a power outage in the premises;
  2. The solution should be suitable for customers' needs and should be offered free of charge to those who are at risk as they are dependent on their landline;
  3. Providers should i) take steps to identify at risk customers and ii) engage in effective communications to ensure all customers understand the risk and eligibility criteria and can request the protection solution; and
  4. Providers should have a process to ensure that customers who move to a new house or whose circumstances change in some other way are aware of the risk and protection solution available.
- 1.10 The final guidance is set out in Annex 1.
- 1.11 The obligations in GCA3.2(b) are extensive, and the guidance is not intended to be the definitive guide on how providers can comply with this Condition. Instead, the guidance sets out Ofcom's expectations in relation to what providers should do to maintain access to emergency organisations in the event of a power cut at the customer's home or premises.
- 1.12 As this guidance relates to a General Condition that is already in place, it applies immediately.

## 2. Basis for our guidance

2.1 In this section, we summarise Ofcom’s functions and duties, as well as providers’ regulatory obligations to take measures to ensure uninterrupted access to emergency organisations for their customers. We then set out the background to why we have published this guidance along with a summary of the structure of this document.

### Regulatory obligations and duties

#### General duties

2.2 Under the Communications Act 2003 (the Act), our principal duty in carrying out our functions is to (a) further the interests of citizens in relation to communications matters and (b) further the interests of consumers in relevant markets, where appropriate by promoting competition. We consider that the ability to access emergency organisations represents a critical citizen interest given the safety of life implications and this is therefore central to our considerations.

2.3 In performing our duties, we are also required to have regard to a range of other considerations, which appear to us to be relevant in the circumstances. In the context of uninterrupted access to emergency organisations, we consider that several such considerations are relevant, for example:

- the circumstances of citizens who appear to us as needing special protection; and
- the desirability of encouraging investment and innovation in the telecommunications market.

2.4 In performing our principal duty, we must also have regard to principles appearing to Ofcom to represent the best regulatory practice. We place emphasis on Ofcom’s regulatory principles including:

- ensuring that our interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome; and
- seeking the least intrusive regulatory mechanisms to achieve our policy objectives.

2.5 We believe that the guidance we are proposing will help achieve our objectives by providing stakeholders with clarity and certainty on how in general we intend to approach compliance with GCA3.2(b) in relation to the specific issues covered by the guidance. The purpose of this guidance is to set out proportionate, technologically neutral expectations that meet our principal duties and ensure that telecoms infrastructure remains fit for purpose in the future.

2.6 We wish to make it clear that we may depart from the guidance in individual cases. It is intended to set out the general approach we would normally expect to take in investigating compliance with GCA3.2(b) in relation to the specific issues covered by this guidance, but it will not have binding legal effect and each case will be considered on its own merits. If we

decide to depart from the guidance, we will set out our reasons for doing so, and it may be subject to further review and revision from time to time.

## The General Conditions of Entitlement

2.7 Under the General Authorisation regime, providers must comply with certain regulatory conditions known as the General Conditions of Entitlement. These Conditions are imposed by Ofcom under Part 2 of the Act and they apply to the providers specified in them.

2.8 The General Conditions of Entitlement impose specific obligations on providers in relation to the availability of services and access to emergency organisations. These obligations are extensive because of the critical nature of telephone availability and access to emergency organisations.

2.9 The most relevant obligation for these purposes can be found in GCA3.2(b). GCA3.2 sets out that:

*“Regulated Providers must take all necessary measures to ensure:*

*a) the fullest possible availability of the Public Electronic Communications Network and Publicly Available Telephone Services provided by them in the event of catastrophic network breakdown or in cases of force majeure; and*

*b) uninterrupted access to Emergency Organisations as part of any Publicly Available Telephone Services offered”.*<sup>2</sup>

2.10 ‘Emergency Organisation’ is defined in the General Conditions of Entitlement:

*“Emergency Organisation’ means in respect of any locality:*

*a) the relevant public police, fire, ambulance and coastguard services for that locality; and*

*b) any other organisation, as directed from time to time by Ofcom as providing a vital service relating to the safety of life in emergencies”*<sup>3</sup>

Ofcom has not directed any other organisations as providing a vital service relating to the safety of life in emergencies.

2.11 GCA3.2 implements the second (underlined) part of Article 23 of the Universal Service Directive<sup>4</sup> which stipulates that *“Member States shall take all necessary measures to ensure the fullest possible availability of publicly available telephone services provided over public communications networks in the event of catastrophic network breakdown or in cases of force majeure. Member States shall ensure that undertakings providing publicly available telephone services take all necessary measures to ensure uninterrupted access to emergency services”.*

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<sup>2</sup> See the revised General Conditions of Entitlement, page 4.

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/112692/Consolidated-General-Conditions.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/112692/Consolidated-General-Conditions.pdf).

<sup>3</sup> See the revised General Conditions of Entitlement, pages 67-68.

<sup>4</sup> Directive 2002/22/EC as amended by Directive 2009/136/EC.

2.12 Directive 2009/136/EC, which amended the Universal Service Directive, includes a number of recitals relevant to new voice services provided over IP, including recital 35 which states that “In future IP networks, where provision of a service may be separated from provision of the network, Member States should determine the most appropriate steps to be taken to ensure the availability of publicly available telephone services provided using public communications networks and uninterrupted access to emergency services in the event of catastrophic network breakdown or in cases of force majeure, taking into account the priorities of different types of subscriber and technical limitations.”

## Background

2.13 In December 2011, Ofcom published revised guidelines on how providers supplying voice services over Fibre to the Premises (FTTP) networks could meet the requirements of the General Conditions (the 2011 Guidance).<sup>5</sup> The 2011 Guidance consisted of three principles which applied to both new-build and ‘overlay’ FTTP deployments:

1. A battery back-up should always be provided to support publicly available telephone services (PATS) provided over FTTP.
2. The minimum duration of the back-up facility should be 1 hour.
3. Providers should take appropriate steps to ensure that the needs of consumers requiring additional protection, and who depend on 999/112 to a greater extent than the majority of the population, are addressed.

2.14 In the years since this guidance, mobile ownership has increased rapidly<sup>6</sup>, mobile coverage has improved<sup>7</sup> and mobile networks are becoming the platform of choice for voice services for many consumers.<sup>8</sup>

2.15 In addition, the types of landline phones that consumers are choosing has changed over time. Our research suggests that 68% of customers that have a landline in their home have a cordless phone only<sup>9</sup>, and that 50% of customers that live in a home with only a landline phone use a cordless phone rather than a traditional corded phone.<sup>10</sup> Cordless phones are very unlikely to work in the event of a power cut as the unit that plugs into the phone socket also needs mains power to work and these do not tend to have a battery.

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<sup>5</sup> Ofcom, 2011. *Guidelines on the use of battery back-up to protect lifeline services delivered using fibre optic technology*. [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0027/76527/battery\\_backup\\_statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0027/76527/battery_backup_statement.pdf).

<sup>6</sup> In 2017, 94% of adults personally owned/used a mobile phone. See Ofcom’s *Communications Market Report 2017*, page 6. Available at: [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/105074/cmr-2017-uk.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/105074/cmr-2017-uk.pdf).

Around 73% of total call volumes were made from a mobile in 2016. See: *Ofcom Telecommunications Market Data Update Q4 2017*. Figure was calculated using fixed summary of call volume data (fixed section Table 3) and mobile call and message volumes by call type data (mobile section Table 2). Available at: <https://www.ofcom.org.uk/research-and-data/telecoms-research/data-updates/telecommunications-market-data-updateq4-2017>.

<sup>7</sup> See paragraph 3.127 of this document.

<sup>8</sup> See paragraph 3.12 of this document.

<sup>9</sup> *Ofcom Phone Use in the Home Survey*, page 9. [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0016/114217/phone-use-home-survey.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0016/114217/phone-use-home-survey.pdf).

<sup>10</sup> *Ibid*, page 88.



- 2.16 It is clear therefore that the way voice services are used by consumers has changed and is likely to continue to do so as providers increasingly move away from services that rely on copper wire to broadband technology and given providers with substantial PSTN infrastructure have indicated their intentions to retire these networks by 2025.<sup>11</sup> However, a significant number of people remain dependent on their landline such as those consumers who live in a home with no mobile signal on any network. In addition, our research suggests that, in relation to voice services, approximately 2 million adults live in a home with a landline and no mobile phone.<sup>12</sup>
- 2.17 Ofcom announced the withdrawal of the 2011 Guidance as part of our Strategic Review of Digital Communications.<sup>13</sup> That document stated that Ofcom would “...assess what operators are doing on a case-by-case basis provided the technical solution delivers a level of protection equivalent to that provided by traditional means”.<sup>14</sup>
- 2.18 Since then, providers have sought clarity from Ofcom regarding our expectations in terms of the measures that should be in place to meet the GC requirements. To ensure that those dependent on their landline are protected, we consider that it is now appropriate to provide guidance to all providers on this matter.
- 2.19 We published a consultation on proposed guidance on protecting access to emergency organisations (the Consultation)<sup>15</sup> on 24 May 2018 and this document sets out our final conclusions.

## The structure of this document

- 2.20 In section 3 we address the Principles in turn, setting out the responses received to the Consultation and our analysis of the issues raised. Where relevant we have clarified our guidance to ensure our expectations are clear.
- 2.21 In Annex 1 we have set out the final guidance.

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<sup>11</sup> Across the world telecoms companies are transitioning to digital or fibre technology and providers with substantial PSTN infrastructure have signalled their intentions to retire these networks in the next few years. In the UK, most recently, Openreach set out the need to withdraw certain products that rely on the BT PSTN in recognition that these products will no longer work when the PSTN closes. Following a consultation, Openreach published a statement responding to the comments received on 1 October 2018.

<sup>12</sup> *Ofcom Technology Tracker H1 2018*, 4% of adults live in fixed only homes (in relation to voice services). Figure was calculated using the Office for National Statistics (ONS) mid-year population estimates for 2016.

<sup>13</sup> Ofcom, 2016. *Making communications work for everyone: Initial conclusions from the Strategic Review of Digital Communications*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0016/50416/dcr-statement.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0016/50416/dcr-statement.pdf).

<sup>14</sup> This position was reiterated in Ofcom’s 2017 *Connected Nations Report* which stated that “Emergency services access should be provided in accordance with the General Conditions” and “Technical solutions for ensuring reliable operation of new voice services, for example during localised or widespread power outages, should provide levels of protections equivalent to that provided by traditional means. We will assess the suitability of such solutions on a case-by-case basis, taking into account the technical limitations and customer usage of both the traditional and new services”. See Ofcom, 2017. *Connected Nations Report 2017: Data Analysis*, page 72.

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/108516/connected-nations-security-resilience-2017.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/108516/connected-nations-security-resilience-2017.pdf).

<sup>15</sup> Ofcom, 2018. *Proposed guidance on protecting access to emergency organisations when there is a power cut at the customer’s premises: Proposals for guidance on General Condition A3.2(b)*.

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0018/114219/consultation-access-emergency-power-cut.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0018/114219/consultation-access-emergency-power-cut.pdf).

## 3. Consultation proposals and responses

- 3.1 In this section, we have addressed the application of the Principles and each of the proposed Principles set out in the Consultation, in turn. We have summarised the proposals in the Consultation before setting out the issues raised by stakeholders. We have responded to those points before setting out our conclusions, including any changes that we have made to the guidance as a result of the feedback received.
- 3.2 We received 28 responses, 27 of which have been published (in whole or in part) on our website and one which was confidential.<sup>16</sup>
- 3.3 Issues that are not covered by GCA3.2(b), such as the impact of the increased take up of VoIP services on over-the-top (OTT) services and network resilience more generally, are not within the scope of this guidance. Therefore, we have not addressed them in any detail within this analysis.
- 3.4 In the Consultation, to help set out our expectations in relation to each Principle, we discussed each component part of the Principles in turn. We have adopted the same approach here.

### Principles based approach

#### Summary of responses

- 3.5 The Communications Consumer Panel (CCP), the Internet Telephony Services Providers' Association (ITSPA), two members of the public, TalkTalk, Verizon, Virgin Media, Vodafone, Vonage and [redacted] commented on Ofcom's principle-based approach.
- 3.6 Some respondents disagreed with our proposals and believed that Ofcom should instead require providers to engage in effective communications with customers, so they understood the risks and could choose to invest in a protection solution if required. Verizon, Vonage and ITSPA noted that Ofcom was the only telecommunications national regulatory authority to require providers to adopt a hardware solution to allow access to emergency organisations. Verizon thought that Ofcom should consider the approaches adopted by other countries that had completed the transition to IP. It noted that the Federal Communications Commission in America required providers to offer a solution to their customers but they were able to charge customers who chose to take it up. Similarly, a member of the public did not think providers should be compelled to provide protection solutions.
- 3.7 A member of the public, Verizon and [redacted] noted that while the guidance focused on the customer's premise, power outages could affect larger areas including network equipment

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<sup>16</sup> Available at: <https://www.ofcom.org.uk/consultations-and-statements/category-2/access-emergency-organisations-power-cut>.

at the cabinet or exchange. Verizon therefore argued that guaranteeing an hour's access at the customer side was not reliable.

- 3.8 [8] said it did not appear that Ofcom had performed a cost-benefit analysis as part of the Consultation. It argued that one should be carried out prior to confirming the final guidance to demonstrate that it was proportionate. Similarly, TalkTalk said the guidance should take a proportionate approach balancing the need to encourage investment and innovation with the need to protect those consumers at risk.
- 3.9 Vodafone thought that the guidance should make clear that the Principles did not apply to providers of a PATS service that already benefited from network-based resilience, such as those continuing to use PSTN or emulated PSTN.
- 3.10 Verizon believed that the Principles should be re-ordered so providers had to identify at risk customers before developing an appropriate solution. It noted that a provider may not have any at risk customers within its base, or a very small number.
- 3.11 TalkTalk thought Ofcom should conduct a further review following the implementation of the guidance to ensure consistency between the regulation of the services offered by OTT voice providers and traditional providers. The CCP also suggested that Ofcom committed to review the guidance when necessary to ensure it adequately protected consumers in vulnerable circumstances.

## Ofcom's response

- 3.12 As discussed in paragraphs 2.9 - 2.12 above, the GC implements Article 23 of the Universal Service Directive which requires Member States to ensure that undertakings providing PATS take all necessary measures to ensure uninterrupted access to emergency services. We consider that our guidance, which requires the targeted provision of protection solutions, is a proportionate response that adequately takes into account a range of factors particular to the UK. These include:
- the level of protection currently afforded to voice customers using the PSTN (which remains powered by the local exchange during a power outage);
  - consumers' increasing reliance on mobile networks for their voice calls, including calls to the emergency services (around 70% of calls to emergency organisations are now made over mobile networks<sup>17</sup>);
  - our research indicating that a significant minority (approximately 2 million adults) of voice customers only have a fixed voice service<sup>18</sup>; and
  - 68% of those customers that only have a landline voice service in their home only have a cordless phone<sup>19</sup> which will not allow them to make calls during a power cut.

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<sup>17</sup> Ofcom, 2017. *Connected Nations Report 2017*, paragraphs 1.21 and 4.9.

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/108843/summary-report-connected-nations-2017.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/108843/summary-report-connected-nations-2017.pdf).

<sup>18</sup> *Ofcom Technology Tracker H1 2018*, 4% of adults live in fixed only homes. Figure was calculated using the ONS mid-year population estimates for 2016.

<sup>19</sup> *Ofcom Phone Use in the Home Survey*, page 9.

- 3.13 The focus of this guidance is on Ofcom’s expectations in relation to the provision of measures to maintain access to emergency organisations in the event of a power outage at the customer’s home or premise. Providers should continue to ensure they are taking all other necessary measures to maintain uninterrupted access to emergency organisations. This includes ensuring that they are doing everything technically possible and within their reasonable control to ensure that their network and/or services are robust and resilient so that customers have access to these vital lifeline services. Given the different network architectures, technologies, scale and resources, setting out specific guidance on general network resilience is considered impractical and is not within the scope of this guidance.<sup>20</sup>
- 3.14 With respect to a cost-benefit analysis, in drafting our proposals and confirming this final guidance, we have considered the impact of our guidance on providers in terms of the costs to provide protection solutions, the importance of encouraging investment and innovation in the telecommunications market, along with potential safety of life implications if consumers are not afforded adequate protection during power outages at their premise. These issues are addressed throughout our analysis.
- 3.15 We consider that it is clear that the Principles do not apply to providers of PATS, or of a Public Electronic Communications Network (PECN) over which a PATS service is provided, that already benefit from network-based resilience (such as traditional copper-based voice services that are powered by the local exchange during a power outage). However, for the avoidance of doubt, we will state this within the final guidance.
- 3.16 While providers may not currently have at risk customers within their customer base, we would expect them to have processes in place to enable them to identify at risk customers during the sign-up process or those that may become at risk due to a change in their circumstances. As a customer may be identified as at risk at any time we would expect providers to have appropriate solutions available that they can deploy at short notice.
- 3.17 We intend to engage with providers regularly to see what measures they have put in place to meet the GC. We will also continue to monitor any complaints we receive about customers’ migration experiences, including their interaction with their providers and the solutions they are offered, as well as addressing any significant concerns through formal enforcement action.

## Application of the Principles

- 3.18 In the Consultation we explained that the obligations in GCA3.2(b) apply to all providers of a PATS and all providers of a PECN over which a PATS is provided. This would include any ‘reseller’ of a PATS service, as well as any provider of an OTT service that meets the PATS definition.

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<sup>20</sup> Providers also have obligations with regard to network security and resilience under sections 105A to D of the Act. Ofcom publishes guidance on these obligations which is periodically reviewed and updated. This year we intend to gather information about general fixed and mobile network resilience to mains power outages and publish an overview of arrangements as part of our *Connected Nations Report* series.

- 3.19 We acknowledged that for those providers who offer only the network element or only the VoIP service to the customer, there may be situations where it may not be possible and/or proportionate to take all the measures set out in the Principles to meet their obligations in GCA3.2(b).
- 3.20 We set out that Ofcom would consider compliance with GCA3.2(b) on a case-by-case basis by, amongst other things, considering whether it would have been technically feasible and/or within the provider's reasonable control to follow all the measures set out in the Principles.
- 3.21 We said that the assessment of what is technically feasible would include an element of proportionality. What is under a provider's reasonable control is likely to vary depending on the type of relationship they have with the customer and/or any other regulated provider.
- 3.22 We also noted that if a customer is taking the network element and VoIP service from separate providers, then there may be an opportunity for providers to work together to ensure that their customer is protected as necessary.

## Summary of responses

- 3.23 We received responses in relation to the applicability of the Principles from 9 Group, BUUK, the Federation of Communication Services (FCS), Gigaclear, Hyperoptic, ITSPA, Magrathea, Openreach, Post Office, TalkTalk, Verizon, Voipfone, Vonage, Virgin Media and [X]. The responses can be broadly placed into three categories, considered further below.

### Responsibility for compliance when different providers supply the network and voice service

- 3.24 Most Consultation respondents did not disagree that GCA3.2(b) applies to both PATS and PECN providers, however a number queried which party was responsible for identifying at risk customers, supplying a protection solution and paying for it, when the PATS and PECN are provided by different providers. Notably, some respondents considered that a particular provider should have primary responsibility for identifying and protecting customers from the risk of their phone not working in a power cut, and there were conflicting views on which this should be.
- 3.25 BUUK, Hyperoptic, Openreach and Gigaclear argued that the PATS provider should be primarily responsible given that they understood the voice service they provided and had an established relationship with the customer. TalkTalk argued that PATS providers should have primary responsibility, but that network and wholesale providers should share some of that responsibility.
- 3.26 Voipfone, Magrathea, Vonage, FCS and Post Office argued that it should be the primary responsibility of the PECN provider as it would be disproportionate to expect the PATS provider to maintain broadband access in the event of a power cut. FCS suggested that the VoIP provider would be best placed to identify those at risk but should then provide that information to the network provider to offer a solution.

- 3.27 Magrathea, Vonage, Gigaclear and ITSPA argued that a lack of clarity on where responsibility lay created a risk that customers would not receive adequate protection, and others thought our suggestion that voice services and network providers should work together was not practical since there was generally no established relationship between them. ITSPA and Voipfone suggested that the industry should explore alternative remedies to protect at risk users, including the maintenance of a powered line. [32] also suggested that industry collaborated with NICC to ensure a standardised interface for cases where the broadband and voice service were supplied by different providers.

### **Applicability of the ‘information only’ obligations in GCA3.3**

- 3.28 Some respondents argued that the requirements in GCA3.3 should apply in the situation where the VoIP provider is separate to the network provider rather than the requirements set out in GCA3.2(b).
- 3.29 FCS and Voipfone felt that any additional requirements imposed by the proposed guidance set out in the Consultation would be contradictory to GCA3.3 which requires relevant providers only to provide information. 9 Group felt that the obligations were ambiguous in this area owing to the differences between GCA3.2(b) and GCA3.3 and sought clarification from Ofcom on when GCA3.3 is applicable. Virgin Media had also understood that there was a discrepancy between the obligations that applied to providers that offered a traditional voice service in comparison to an OTT VoIP service.

### **Applicability to business customers**

- 3.30 9 Group felt that the expectations on providers to ensure compliance with GCA3.2(b) in relation to business customers needed further clarity. It queried how the guidance would apply in the case of an employee working from home. It believed such provision was unreasonable and was instead a duty of care issue for the employer. ITSPA requested clarification on how the guidelines would apply to business customers.
- 3.31 TalkTalk noted that whilst GCA3.2(b) applies to business as well as residential customers, it anticipated a very small number of businesses would likely require a protection solution, highlighting the difference between sole traders and larger businesses that by nature were more likely to have greater communications resilience. Verizon argued that enterprise customers had different demands and expectations from residential and small business customers, and providers serving such customers should be exempted from these requirements.

## **Ofcom’s response**

### **Responsibility for compliance when different providers supply the network and voice service**

- 3.32 The varying responses from providers about who should have primary responsibility, and the differing information that parties hold, highlight that there are many different scenarios that may apply depending on the relationship the customer has with each provider, as well as the relationship (if any) that the providers have with one another.

- 3.33 It will not always be the case that one provider will hold more information than the other; this is dependent on what information customers share with each provider during the sign-up process or during the normal course of business. In addition, it is not always the case that the network provider will not know who the voice provider is/will be. It is therefore not possible to generalise about which provider might have more information and therefore be best placed to identify and protect the customer.
- 3.34 We acknowledge and appreciate that this adds an element of complexity to the practical steps that providers need to take to ensure their customers are protected; however, we do not consider that the answer is that 'primary' responsibility for protection should be placed on either the network provider or the VoIP service provider. We consider that both providers are responsible for their own network or voice service and have a role to play in ensuring that their customers are protected from the risk of their phone not working in a power cut – whether this is because they are supplying the voice service itself, or the underlying network that the voice service is reliant on.
- 3.35 While we appreciate that, for example, a network provider may not know everything about a voice service being supplied by another provider, it will be aware that any VoIP service connected to its network will not work in the event of a power cut. It should therefore be able to communicate this to its customers and take appropriate and proportionate steps to ensure they are protected if they are reliant on their landline (whether that be by, for example, working with the VoIP service provider to ensure a solution is in place, or by protecting its own network connection). Even in situations where the customer has not yet taken a VoIP service, if they are identified as potentially in need of protection, there are still steps that the network provider could take to ensure the customer will be protected (whether this be by, for example, informing the customer that they should contact the network provider again once they have chosen a VoIP service or by protecting the network connection).
- 3.36 Similarly, while we appreciate that a VoIP service provider will not necessarily be able to power the network connection if it does not have any knowledge about the nature of that connection, it should still have a number of appropriate and proportionate options available to ensure that its customer has the protection that they require (whether that be by, for example, working with the network provider to ensure a solution is in place, or by providing a solution capable of working with any network e.g. an uninterruptible power supply (UPS) or mobile handset).
- 3.37 The exact method chosen needs to be a decision made by the particular provider bearing in mind its own circumstances and what is possible and proportionate based on this. A provider may for example find it only has a handful of at risk customers and therefore may choose to provide a protection solution rather than work with the other provider e.g. by providing a UPS or a mobile handset. There are many options, but the most important thing is to ensure that customers who require protection receive this, so they are not left vulnerable in the event of a power cut.
- 3.38 We continue to consider that both parties should take responsibility for ensuring that their customers are protected and should build appropriate processes and communications

around this that work for their own business and customers. Therefore, each should be mindful of the other when they are designing their processes and communications. We welcome the suggestion made by some respondents that industry could benefit from discussing their plans and trying to adopt a more collaborative and consistent approach where appropriate, and therefore we intend to help facilitate those discussions.

### **Applicability of the ‘information only’ obligations in GCA3.3**

3.39 GCA3.3 sets out that:

*“Regulated Providers must inform their Domestic and Small Business Customers in plain English and in an easily accessible manner that access to Emergency Organisations using VoIP Outbound Call Services may cease if there is a power cut or power failure, or a failure of the internet connection on which the service relies. This information must be provided during the sales process, within the terms and conditions of use, and in any user guide issued by the Regulated Provider”.*

3.40 GCA3.3 applies to any provider of a ‘VoIP Outbound Call Service’.<sup>21</sup> A VoIP Outbound Call Service is defined as:

*“‘VoIP Outbound Call Service’ means a service that allows End-Users to make (but not receive) a voice call to a number included in the National Telephone Numbering Plan using an internet connection where the service is provided independently of the provision of the internet connection, excluding any Click to Call Service” [emphasis added].*

3.41 By contrast:

*“‘Publicly Available Telephone Service’ means a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan”.*

3.42 A key difference is that a VoIP Outbound Call Service would not allow customers to receive a voice call from a number included in the National Telephone Numbering Plan. If a VoIP provider is providing a VoIP Outbound Call Service, then it will not be providing a service that meets the definition of a PATS service. In this case, the VoIP provider would not be subject to the obligations in GCA3.2(b), and therefore the Principles would not apply, but it would be caught by the obligations in GCA3.3. On the other hand, if a VoIP provider is providing a PATS service then it will be caught by the stricter obligations in GCA3.2(b) and should be taking account of the Principles.

### **Applicability to business customers**

3.43 As set out in the Consultation, GCA3.2(b) applies in relation to any PATS services offered and therefore providers should take account of the Principles when considering both domestic and business customers.

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<sup>21</sup> See GCA3.1(b).



- 3.44 We note that the proportion of business customers who would be reliant on their business phone line as their sole method of contacting the emergency services in the event of a power cut is likely to be extremely small. Many businesses, particularly larger enterprises, will opt to purchase their own resilience solutions to meet their specific needs and deal with power outage and security risks more generally. We therefore consider it is appropriate and proportionate to expect providers to take account of the Principles when considering their business customers.
- 3.45 In addition, we note that there may be situations where it would not be possible and proportionate to comply with all of the Principles in relation to business customers. For example, it may not be proportionate for a provider to offer a backup protection solution capable of powering all the phone lines in a large office or large enterprise. However, if a provider identifies that one of their business customers is reliant on this phone line e.g. a sole trader working from home or a small office with no mobile signal, then it is likely to be proportionate to take steps to ensure that this customer has the protection that they require, bearing in mind the Principles.

## Conclusion

- 3.46 We do not intend to make any changes regarding how the guidance applies to both PATS and PECN providers, and residential and business providers. Therefore, we continue to consider that both PATS and PECN providers need to be mindful of the guidance and consider how it applies to them given the unique circumstances of their businesses. Where relevant, we expect providers to work together to ensure that their customers are adequately protected. Similarly, we expect providers to take account of the Principles when considering the protection required by their business customers.

## **Principle 1: Providers should have at least one solution that enables access to emergency organisations for a minimum of one hour in the event of a power outage in the premises**

- 3.47 In the Consultation, we set out that providers should have at least one solution which would allow customers to access emergency organisations in the event of a power outage at their premises. We noted that in the UK, emergency organisations are defined as the public police, fire, ambulance and coastguard services, and so providers were only obliged to provide access to those services.
- 3.48 We explained that the obligations in GCA3 were technology neutral and so we did not prescribe what type of solution providers should develop.
- 3.49 We considered that one hour's protection represented an appropriate minimum level of protection to provide customers taking VoIP services in most cases. We recognised, however, that some individual customers might require protection beyond one hour, for example, because they lived in households with a history of long-duration power outages, and that providers should take steps to ensure those customers were protected.

- 3.50 We also set out an expectation that providers would have procedures and processes in place, appropriate to the solution adopted, to ensure it continued to work on an ongoing basis.

## Providers should have at least one solution

### Summary of responses

- 3.51 We received comments on the development of a protection solution from the Broadband Stakeholder Group (BSG), BT, FCS, Gigaclear, the Joint Radio Company (JRC), KCOM, a member of the public, Shropshire Council, Verizon, Virgin Media and Vonage.
- 3.52 A number of respondents, including BT, BSG, Gigaclear and KCOM, welcomed the fact that Ofcom had taken a technologically neutral approach to allow providers to develop a solution that best suited the particular characteristics of their service or network and customer base.
- 3.53 KCOM asked us to confirm whether the requirement “...to have at least one solution” meant that at least one type of solution must be deployed to all customers.
- 3.54 FCS said mandating the use of batteries in a domestic setting presented a number of risks such as premature battery failure and mechanical damage. It noted that the guidance did not include mandatory safety requirements. There was a large amount of poorly engineered and dangerously cheap battery back-up units on market, some of which could interfere with telecoms equipment.
- 3.55 Some respondents queried whether solutions which relied on a mobile network were viable given mobile coverage in the UK is not comprehensive. Virgin Media queried whether Ofcom would consider the provision of a mobile phone to a customer identified as at risk to be a suitable protection solution in some circumstances. It noted that such an approach would be cheaper and potentially provide more functionality than some alternatives. Vonage said if it was required to provide a solution, its default could be to provide a SIM free mobile phone. If the customer lived in a mobile not-spot, then an alternative solution would be developed. In contrast, one member of the public thought that a mobile device would not be an effective solution as devices lose their charge or can be misplaced.
- 3.56 JRC and a member of the public raised concerns about the resilience of mobile networks. JRC questioned our assumption that mobile phone networks would provide a reliable service during a power outage. It noted that there would often be mobile coverage in ‘blacked out’ areas from mobile base stations that had a backed-up power supply, but it was not clear for what amount of time they would continue to function during an outage affecting a wide area.
- 3.57 As noted in paragraph 3.29, Virgin Media had understood that different obligations applied to providers of OTT VoIP services, believing that the GCs simply required them to make clear to their customers that they would not be able to make voice calls in a power cut. In light of that, it queried whether Ofcom considered it reasonable for a provider to supply a

customer with a voice service without back-up if it was marketed as an explicit proposition, with appropriate informed consent. Given Virgin Media's protection solution relies on the mobile network to function, this would allow it to provide fixed voice services in mobile not-spots.

## Ofcom's response

- 3.58 In requiring providers to develop "...at least one solution", we expect them to develop a protection solution which can be provided to customers identified as at risk and allows them to contact emergency organisations for a minimum of one hour. Providers may develop more than one solution if they are aware that different customers within their base have varying requirements or they may wish to provide enhanced protection to all, and therefore simply develop one solution. For example, providers must ensure equivalent access<sup>22</sup> to emergency organisations for customers who use textphones/text relay. These customers cannot dial 999 or 112 directly but use access codes, typically 18000. Providers may need to provide tailored solutions for these customers, taking into account whether they own a mobile, and whether that mobile can access text relay via the Next Generation Text app<sup>23</sup> at their home or premises, or if the customer has registered for emergency SMS (available on all mobile phones, not just smartphones<sup>24</sup>).
- 3.59 Given our guidance is not prescriptive and is technologically neutral, we do not intend to provide further guidance on the specifications that solutions offered by providers need to meet. We would expect any solutions provided to adhere to the relevant EU safety standards, however, and to function with any equipment they are intended to support.
- 3.60 In relation to mobile coverage, Ofcom's latest 'Connected Nations' report estimates that there is indoor mobile coverage by at least one mobile network operator for 99% of premises in the UK.<sup>25</sup> This is the most relevant measure to understand coverage when needing to make an emergency call, as emergency call roaming means that calls to the emergency services on 999 or 112 will automatically roam onto an available network if there is no coverage from the caller's own mobile service provider. While this figure is lower for rural areas and mobile signal can depend on the unique circumstances of a particular customer (such as the thickness of their walls and local signal obstructions), mobile coverage has continued to improve in recent years and we expect there will continue to be improvements in coverage in the years ahead.
- 3.61 Providers can choose to develop a solution that best meets the needs of their customers and the particular characteristics of the network or service they offer. While we acknowledge that a mobile solution will not be suitable for all customers, we consider that the provision of a mobile handset that allows a customer to make calls to the emergency

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<sup>22</sup> Article 26(4) of the Universal Service Directive (as amended) requires Member States to ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users.

<sup>23</sup> <https://www.ngts.org.uk/>.

<sup>24</sup> <https://www.ngts.org.uk/how-to-use-ngt/contact-999-using-ngt.html>.

<sup>25</sup> Figure calculated from coverage data collected as part of *Connected Nations*, see: <https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-update-spring-2018>.

services may be an appropriate solution in some cases. We would expect providers to only offer a mobile solution if they were sure that there was adequate coverage from at least one mobile network at the premise, and it was suitable for the customer's specific circumstances. We would also expect the provider to clearly communicate that the customer needs to keep their mobile charged and any limitations, such as the fact it could only be used to call emergency services if that was the case.

- 3.62 In relation to Vonage's suggestion of providing a SIM free mobile phone to those customers that have mobile coverage, we note that not all SIM free phones are able to make emergency calls.
- 3.63 With regard to JRC's concerns about mobile network resilience, we note that unlike fixed networks, the ability to make an emergency call over a mobile network depends on more factors than simply the ability to connect with the local exchange. For example, mobile coverage from one mast site often overlaps with coverage from an adjacent site. In addition, as mentioned above, emergency calls on 999 and 112 can roam between networks which provides additional coverage across much of the UK. Emergency calls also take priority over ordinary mobile calls which means that, even with limited capacity, an emergency call is more likely to be successful. Determining whether a particular mobile network or area is resilient to power loss requires a detailed understanding of multiple factors, and this lies outside of the scope of this guidance. As noted in the Consultation, however, we have an ongoing programme of work to monitor mobile network failures and use this to inform future policy on network resilience in general.
- 3.64 As noted in paragraphs 3.39 – 3.42 above, this guidance applies to all providers of PATS and of PECN over which a PATS is provided, which will include a number of OTT VoIP providers. The 'information only' obligations set out in GCA3.3 only apply to VoIP Outbound Call Service providers. With regard to Virgin Media's query about whether a provider can offer a voice service that has no back-up, we would expect a provider to be able to offer a protection solution to all at risk customers.

## A minimum of one hour

### Summary of responses

- 3.65 BT, the CCP, FCS, Gigaclear, JRC, KCOM, London Fire Brigade (LFB), members of the public, Post Office, TalkTalk, TEC Services Association (TSA), Virgin Media and [redacted] commented on the requirement for providers to develop solutions that provide a minimum of one hour's protection.
- 3.66 A number of respondents believed that a minimum of one hour's protection was sufficient given the average length of a power cut is significantly less than one hour. Many thought that one hour was ample time to allow an individual to contact the emergency services when required.
- 3.67 Others were concerned that an hour was not enough. LFB noted that while an overview of UK power outages in 2015 found that the national average duration of a power cut was 50

mins<sup>26</sup>, the average for Greater London was 2.6 hours.<sup>27</sup> Therefore, they believed the minimum of an hour would be ineffective in London and other places that experienced power outages in excess of the average. Others, including three members of the public and the CCP, argued that the minimum should be extended, suggesting a range of times from two to 48 hours. The CCP noted that a power cut could happen at any time, including in the middle of the night, and therefore those customers considered to be most at risk should be provided with a solution providing a minimum of eight hours' protection. JRC also noted that there were a number of circumstances, including inoperative machinery, a cold environment and fires originating from candles, where an emergency could occur long after the initial outage.

- 3.68 TSA noted that standards for UK and EU telecare alarms stipulated 24-hour battery back-up requirements to cover extended power-outages resulting, for example, from storm damage.
- 3.69 A number of providers, including BT, Gigaclear, TalkTalk and Virgin Media, disagreed with the expectation that providers should take appropriate steps to identify and address the needs of customers who would benefit from longer protection because, for example, they live in households that have a history of long-duration power outages. BT stated that it was "...disproportionate for Ofcom to expect [providers] to provide protection for customers experiencing power cuts of significant duration" and noted that these cases were the responsibility of the energy companies. Similarly, JRC argued that it was "...incumbent on the electricity network provider to remedy the situation". The Post Office suggested that Ofcom should discuss the costs being borne by providers due to energy industry failures with Ofgem. Several respondents noted that the definition of these customers was too vague and providers' obligations towards them unclear. Instead, they felt one standard should apply to all customers. TalkTalk thought that the requirement on providers to inform their customers about the duration of the protection offered by a solution was sufficient for the customer to assess whether their needs were met or not.
- 3.70 KCOM and FCS asked Ofcom to clarify the amount of 'talk time' required of a solution that enabled access to the emergency organisations. KCOM suggested this should be limited to 20 minutes in any given one-hour power outage. LFB noted that emergency calls needed to be of sufficient length for the agent to provide fire survival guidance if required and to allow a full appraisal of the situation. It also said providers needed to be aware that sometimes emergency calls disconnect and so additional time might be required to re-establish the call.
- 3.71 KCOM also noted that UK power networks could experience sequential power outages (whether local or potentially national) and therefore it is possible that a battery solution, such as a UPS, would be unable to recharge in sufficient time to provide sustained

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<sup>26</sup> Eaton Corporation Plc, 2015. *Power Outage Annual Report, Blackout Tracker, United Kingdom Annual Report 2015*. See: <http://powerquality.eaton.com/blackouttracker/default.asp>.

<sup>27</sup> Ibid.

protection. It therefore argued that Ofcom should require one hour's minimum protection in relation to a single outage in a specified period, such as 24 hours.

- 3.72 [X] queried whether the minimum of an hour applied when the solution was new or in perpetuity, when it was at full load, and at what temperature. It thought the guidance should be amended to make clear the minimum applied under normal household conditions.

## Ofcom's response

- 3.73 In developing these Principles, we have considered the potential significant threat to life if providers do not offer any protection to customers, and what we would consider to be a proportionate and reasonable approach, taking into account the way consumers use voice services and their increasing reliance on mobile networks in recent years. We do not consider that providers need to offer protection to all customers and instead our guidance permits providers to take a targeted approach and only supply a solution to those customers that are identified to be at risk due to their reliance on a landline.
- 3.74 For those judged to be at risk, we consider that providers should offer a solution ensuring a minimum of one hour's access to the emergency organisations in a power cut.
- 3.75 In requiring providers to offer a minimum of one hour's protection, we have considered the costs and benefits of enhanced protection<sup>28</sup> and data on the average length of power outages.<sup>29</sup> For example, we note that as the protection offered by a particular solution increases, typically, the physical size of the solution that needs to be installed at the customer's premises will also increase, which may lead to customers turning down the solution even though they may well require the functionality it offers.<sup>30</sup>
- 3.76 We note LFB's concern that an hour is insufficient given that the average power outage in London in 2015 was 2.6 hours. That figure is drawn from a report based on reported power outages from sources such as news reports and personal accounts and as a result it is not clear to us that it represents a statistically robust figure in terms of the development of our guidance. In contrast, Ofgem data collected from relevant DNO suggests that the average length of time customers in London were without power per interruption in 2016-17 was less than 20 minutes.<sup>31</sup> Furthermore, our guidance makes clear that the onus is on providers to consider the individual circumstances of their customers and to ensure they provide solutions that are appropriate for their needs. Therefore, if a provider is alerted to the fact that a particular customer requires greater protection, for example because they

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<sup>28</sup> See the 2011 Guidance.

<sup>29</sup> See Annex 1 of the Consultation. Readers should note that Ofgem subsequently advised us that the data relates to both domestic and non-domestic customers.

<sup>30</sup> In its Consultation response, Virgin Media made this observation based on trials of its IP voice service:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0015/117213/Virgin.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0015/117213/Virgin.pdf).

<sup>31</sup> Ofgem, 2017. *RIIO-ED1 Annual Report 2016/17*, page 26. See data for 'LPN' in Table A2.1.

[https://www.ofgem.gov.uk/system/files/docs/2017/12/riio-ed1\\_annual\\_report\\_2016-17.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/12/riio-ed1_annual_report_2016-17.pdf). (We note that the report does not make clear how the geographic region covered by UK Power Networks' London Network Area is defined).

live in an area that is subject to regular power outages longer than an hour, the provider needs to ensure it responds appropriately.

- 3.77 We acknowledge that some customers may experience one-off, unforeseen power cuts that are longer than an hour, and we accept that providers cannot be expected to predict where these will occur or provide solutions that protect customers in all exceptional circumstances.
- 3.78 We do not consider that this requirement undermines the responsibility that energy distributors have to resolve power outages as quickly as possible and to support those customers that may be at increased risk during an outage. Instead, it ensures that customers with no alternative means of contacting the emergency services can continue to do so for a minimum of an hour while their distributor works to restore their power supply.
- 3.79 We will continue to liaise with Ofgem and the energy industry, particularly Distribution Network Operators, to ensure they understand the impact of the upcoming changes to how phone services are delivered and can take steps to continue to communicate with their customers effectively during power outages, particularly those that are listed on their Priority Services Registers.
- 3.80 In meeting their customers' needs and developing solutions, providers will need to determine whether they wish to provide enhanced protection that will support emergency calls for more than an hour to all, and therefore simply develop one solution and provide it to every customer considered to be at risk, or whether to develop multiple solutions that offer differing levels of protection depending on the needs of particular customers.
- 3.81 With regard to talk time, we consider that providers should ensure that the protection solutions they deploy give customers sufficient talk time to have a meaningful conversation with the emergency organisations. This means that any solution offered will need to allow a call of sufficient length to allow the caller to describe the situation they are in and what help is required. Similarly, call agents need to be able to convey any life-saving information where relevant. We would expect providers to be able to justify the amount of talk time their solution offers and why they consider it to be adequate for users' needs.
- 3.82 We understand that some protection solutions that providers are developing require a power source to remain charged and that once they are depleted they will require time to recharge and function at full capacity. We recognise that providers may not be reasonably able to provide a protection solution that is able to provide continuous protection if a customer experiences a number of consecutive power outages and there is not sufficient time for it to recharge.
- 3.83 We consider that the one hour's protection should be achieved under typical conditions and, as discussed in paragraphs 3.89 – 3.91 below, providers need to have appropriate maintenance measures in place to ensure the solution continues to function effectively. We would also expect providers to make clear any limitations of the solution they are offering, for example, if the solution powers the router and permits its usual functionality, customers will need to be aware that if they use their broadband connection for other

applications, such as browsing the web or streaming content during a power outage, then they will reduce the amount of time it will support emergency calls.

## Enables access

### Summary of responses

- 3.84 BT, FCS, Gigaclear, KCOM and LFB made comments relating to the maintenance of any protection solution offered.
- 3.85 Some providers queried which party would be responsible for different aspects of any maintenance programme to ensure that a protection solution continued to work effectively. KCOM said a strict reading of the first principle implied that the maintenance of a battery solution, such as a UPS, would require an annual engineer visit. While it acknowledged that in some cases, for example where a customer was considered vulnerable, an annual maintenance visit would be appropriate, it was very difficult to gain access to customers' homes and there were significant operational costs involved in an engineer led replacement programme. It also noted that to replace batteries in a device would often be a very straightforward exercise. Therefore, it sought clarity as to whether customers could be given a share of the responsibility to ensure their solution continued to function by, for example, installing new rechargeable batteries in a UPS. Gigaclear envisaged a similar approach and believed it would be appropriate to inform the end customer how to check that their device was still working correctly or had sufficient charge and direct them to contact their provider for a replacement battery when required.
- 3.86 The FCS sought clarity regarding the extent of a provider's responsibilities, particularly as the battery aged. They queried whether a provider was responsible for the capacity testing, upkeep and compliance of any battery solution.
- 3.87 BT considered that for business customers, the responsibility for any upkeep of the protection solution should lie with the customer rather than the provider. It noted that business customers had different needs and expectations from domestic customers, and providers could not be expected to maintain a solution offered to business customers over the long term.
- 3.88 LFB said there was a need for a robust programme for installation, testing, maintenance and replacement of protection solutions, particularly for customers with physical and mental vulnerability that might inhibit them carrying out such activities.

### Ofcom's response

- 3.89 As set out in our Consultation, we expect providers to have procedures and practices in place, appropriate to the solution adopted, to ensure that it will continue to work on an ongoing basis. In designing their approach, we would expect providers to consider the complexity of any maintenance required and the capabilities of their customers. We consider that for many solutions it may be appropriate for customers to take some responsibility for their maintenance by, for example, alerting their provider when the



battery needs replacing or installing a replacement. However, we would expect providers to supply customers with clear guidance around the steps they need to take and ensure that any indicators can be easily identified. Providers should also consider the needs of customers with disabilities, such as sight or hearing difficulties, and ensure that any expectations regarding the role they can take to monitor their solution are reasonable. If a solution, or the particular circumstances of a customer, leads a provider to take full responsibility for the maintenance of a solution, then we would expect the provider to do everything within their reasonable control to ensure that it is properly maintained.

- 3.90 We are committed to ensuring that the process of customers migrating from a voice service over the PSTN to voice over broadband will not result in harm or poor outcomes for consumers and businesses. We aim to ensure that migration does not cause undue disruption to customers. Within our recent Connected Nations reports<sup>32</sup> we set out the principles that would apply during migration to achieve this aim and these include a number of expectations around additional support that should be offered to those customers that might require help to understand and install new equipment. If the installation process for a protection solution is complex or may be difficult for a certain subset of customers, such as those with mobility issues, to carry out, we would expect providers to support that process.
- 3.91 As discussed in paragraphs 3.43 to 3.45, GCA3.2(b) applies in relation to any PATS service offered regardless of whether it is to a domestic or business customer. We note, however, that business customers, particularly larger enterprises, will have very different needs to domestic customers and, in many cases, are unlikely to be considered at risk. Smaller business customers, particularly those in rural areas, may be identified as at risk, however, and therefore may choose to rely on the solutions offered by their provider. As above, we would expect the provider to consider the particular circumstances of a business before determining where the responsibility for maintenance should lie.

## Emergency organisations

### Summary of responses

- 3.92 BUUK, the CCP, Shropshire Council, TSA and [redacted] commented on the requirement for providers to ensure uninterrupted access to emergency organisations.
- 3.93 A number of respondents argued that the definition of ‘Emergency Organisation’ needed to be expanded. Some believed any solution should permit calls to ‘105’, the national power cut and electricity network safety service, which allows customers to alert their energy distributor when their power fails. Others thought that calls to additional ‘non-emergency’ numbers should be permitted to alleviate the pressure on emergency services. For example, the CCP thought that customers on providers’ Priority Services Registers (Priority Fault Repair in telecommunications) should also be able to call a friend or family

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<sup>32</sup> *Connected Nations Report 2017: Data Analysis*; Ofcom, 2016. *Connected Nations Report 2016*.  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0039/95898/CN16-07.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0039/95898/CN16-07.pdf).

member, allowing them to seek advice or reassure loved ones that they are safe. Shropshire Council and the TSA believe that Alarm Receiving Centres (ARCs, which receive calls from telecare devices) should also be included. TSA noted that UK ARCs receive in excess of 50 million calls per annum and typically resolve 95-97% of those calls without emergency call-outs. They anticipated that most, if not all, of those calls would fall directly on emergency services call centres if alarm services were inaccessible.

- 3.94 [X] noted that under a strict interpretation of the GC, providers would only need to ensure that customers were able to contact the emergency services, however, Ofcom should make clear what it considered to be a good outcome for customers even if it could not compel providers to ensure the availability of additional numbers.

## Ofcom's response

- 3.95 GCA3.2(b) stipulates that providers should ensure that customers have uninterrupted access to 'Emergency Organisations'. 'Emergency Organisation' is defined in the revised General Conditions as the relevant public police, fire, ambulance and coastguard services for the locality – the bodies that customers can contact using the emergency call numbers 999 and 112. As discussed in paragraph 3.58, providers also need to ensure equivalent access<sup>33</sup> to emergency organisations for those customers that use textphones/text relay. As no additional organisations are currently classified as 'Emergency Organisations', including ARCs and the national power cut and electricity network safety service, Ofcom cannot compel providers to ensure their customers have access to those organisations during a power outage. While we note that Ofcom can direct that other organisations 'providing a vital service relating to the safety of life in emergencies' are 'Emergency Organisations', this would have wider consequences and require separate consideration.
- 3.96 We note that some protection solutions, notably battery back-up units which simply power the router and ensure a voice service can be conveyed over a broadband connection, allow customers to call any number. Therefore, providers may wish to develop solutions which offer this enhanced connectivity.
- 3.97 We welcome the fact that some solutions will enable customers to call any number but note that providers will need to make clear that if their solution supports non-emergency calls, those calls will use up its talk time, reducing the power available for an emergency call if subsequently required.
- 3.98 Similarly, the customer should be made aware of any limitation on the numbers they can call if any applies.

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<sup>33</sup> Article 26(4) of the Universal Service Directive (as amended) requires Member States to ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users.

## Principle 1 conclusion

3.99 We do not intend to make any changes to Principle 1 in light of the responses received from stakeholders, however, we have clarified aspects of the guidance. We consider that providers need to develop at least one protection solution to ensure that customers can access the emergency services during a power outage for a minimum of one hour. They must ensure equivalent access<sup>34</sup> to emergency organisations for those customers that use textphones/text relay. The protection solution(s) deployed should give customers sufficient talk time to allow them to describe the situation they are in and what help is required. We expect providers to be mindful of the individual circumstances of their customers and provide additional protection for those customers that may require it, for example, because they are regularly subject to power cuts that are longer than one hour and have no alternative means of contacting the emergency services. Similarly, providers should have procedures and practices in place to support the installation of the solution at a customer's premise where required, and to ensure it continues to work on an ongoing basis.

## Principle 2: The solution should be suitable for customers' needs and should be offered free of charge to those who are at risk as they are dependent on their landline

- 3.100 The Consultation stated that providers should offer and implement solutions that are appropriate for the individual needs of their customers. We set out our expectation that providers would give due consideration to a customer's situation; for example, if a provider's solution relied on mobile signal to work, then they should ensure the customer lives in a premise with mobile coverage.
- 3.101 We also set out the expectation that providers should explain the pertinent features of their solution and draw particular attention to any inherent limitations or to any responsibility the customer needed to take for the protection solution to work effectively. We stated that the provider should satisfy themselves that the customer understood any responsibilities and was able to fulfil them without undue difficulty. For example, if a provider's solution powers a customer's router, they will require a corded phone to ensure access to emergency organisations. Therefore, if a customer had a cordless phone, we would expect the provider to clearly explain that the solution requires a corded phone and to satisfy themselves that the customer can access one.
- 3.102 We considered that providers should provide solutions free of charge to customers that were at risk due to their dependence on their landline.
- 3.103 We acknowledged that some customers that are offered a solution may choose to decline it if they feel they have alternative protection and noted that they should be free to make

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<sup>34</sup> Article 26(4) of the Universal Service Directive (as amended) requires Member States to ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users.

that choice. We emphasised, however, that providers should ensure that the fact a customer's phone will not work in the event of a power outage would need to be clearly communicated to the customer, and that the process and outcome reached should be carefully documented.

- 3.104 We considered that the following customers were likely to be dependent on their landline and therefore we expected that providers would offer them a free solution:
- those with disability and/or accessibility requirements that mean they have a greater propensity to contact emergency organisations; and/or
  - those who do not have an alternative means of calling emergency organisations, for example, customers that do not own a mobile or have poor/no mobile coverage at their premise.
- 3.105 The Consultation also included a non-exhaustive list of potential indicators that might help providers to identify customers with a disability or accessibility requirement that means they are reliant on their landline, such as those registered for Priority Fault Repair, those who received bills and contracts in alternative formats such as large print and Braille, and those who were telecare or textphone users.

## **Suitable for customers' needs**

### **Summary of responses**

- 3.106 KCOM and TalkTalk commented on our suggestions around ensuring any solution offered was suitable for customers' needs.
- 3.107 KCOM agreed it was appropriate to communicate that there may be issues with a cordless phone in the event of power failure. It noted that the same issues arose whether a customer's line was powered or not.
- 3.108 KCOM also said it was unclear whether Ofcom considered it was proportionate to expect a provider to offer a corded telephone free of charge where the solution was deployed but the customer only had a cordless phone.
- 3.109 TalkTalk understood Ofcom's position to mean that a provider was not required to offer a corded phone if it was needed for the protection solution to work, but that the customer should be made aware that they would need to purchase a corded phone in order to benefit from the protection.

### **Ofcom's response**

- 3.110 We maintain that providers should explain to their customers the pertinent features of any solution provided. This includes drawing the customer's attention to any inherent limitations of the solution, or to the responsibilities the customer has to ensure the protection is maximised. The provider should satisfy itself that the customer understands their responsibilities and is able to fulfil them without undue difficulty.

- 3.111 For example, if the provider's solution requires a corded phone to work we would expect that requirement to be made clear to the customer, and for the provider to satisfy themselves that the customer can access one. We note that some customers may not be aware that their cordless phone will not work in the event of a power cut.<sup>35</sup> It is imperative that the situation does not arise where a customer is provided with a solution and believes they are protected only to find that their cordless phone does not work when they attempt to make a call to the emergency services in a power outage.
- 3.112 As discussed above, when ensuring a solution is suitable for a customer's needs, we would expect providers to consider the customer's ability to utilise a particular solution. For example, providers will need to be mindful of whether older customers who have never owned or used a mobile phone before would be comfortable to rely on one as their protection solution. Similarly, providers will need to ensure that any solution provided to a textphone/text relay user ensures equivalent access to emergency organisations.

## Offered free of charge

### Summary of responses

- 3.113 The majority of respondents agreed that those customers identified as at risk should be provided with a solution free of charge.
- 3.114 Sky and Virgin Media commented on our expectation that providers should offer the solution free of charge to those customers who are at risk due to their dependence on their landline.
- 3.115 Virgin Media noted that a provider could not force a customer assessed to be at risk to accept a solution if they did not want it. It was important that this was an informed choice and the provider was confident that the customer fully understood the risks of not accepting a solution. It argued that this should be explicit in the guidance. Similarly, Sky said the guidance needed to make clear that if a customer refused a solution, the provider was entitled to rely on affirmation from the customer.

### Ofcom's response

- 3.116 We understand that some customers who are offered a solution free of charge may decline it, for example, because they have alternative protection. We agree that customers should be free to make this choice and cannot be forced to accept a solution they do not want. We maintain that providers will need to satisfy themselves that the customer in question understands that the phone will not work in a power outage and that unless they buy/have an alternative source of protection, they will not be able to contact the emergency services. The process and the customer's decision should be carefully documented.

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<sup>35</sup> Ofcom research suggests that 22% of all consumers who own a cordless phone may not be aware that this will not work in the event of a power cut and this percentage increases for those consumers living in homes with a landline but no mobile phone. See *Ofcom Phone Use in the Home Survey*, response to question 8.

## Customers dependent on their landline

### Summary of responses

- 3.117 BT, BSG, Gigaclear, Post Office, TalkTalk, TSA, Virgin Media, and [X] commented on Ofcom's suggestions of factors to consider when assessing if a consumer was dependent on their landline.
- 3.118 A number of respondents welcomed the fact that we did not require a solution to be offered to all customers, but believed that our definition of at risk customers was too broad and should be narrowed, particularly given the costs involved in supplying at risk customers with a protection solution. As discussed in the 'Impact on competition' section below, some felt that unless the eligibility criteria, and therefore the costs, were limited, our guidance could result in competition issues.
- 3.119 TalkTalk, Post Office and BT argued that the absence of a mobile phone alone should not determine whether a customer was eligible for a protection solution. They noted that those customers may have chosen to not purchase a mobile but had the option to do so and therefore could effectively purchase adequate protection themselves. TalkTalk noted that any protection solution offered was likely to be less effective at addressing the risk that a customer could not contact the emergency services in the event of a power outage than a basic low-cost mobile. A mobile would provide longer battery life and enable the customer to call any number.
- 3.120 Gigaclear believed that the absence of mobile coverage in isolation did not mean that a customer should be eligible for a protection solution. Instead, it argued that the test should be whether the customer had both a disability or accessibility requirement that meant they were reliant on their landline **and** had no viable alternative means of contacting the emergency services. It was concerned that if the absence of mobile coverage alone was considered sufficient to merit a free protection solution, this would result in a high number of eligible customers and would limit the business case for providing VoIP services in rural areas. Such an approach would also increase the costs of rolling out broadband in rural areas, directly contradicting the Government's current policy.
- 3.121 TSA noted that many at risk customers would be those using social alarms or technology-enabled care services and so providers would be able to easily identify those who were eligible for a protection solution. In contrast, BT and TalkTalk thought that telecare users should not be automatically eligible for a protection solution. Given the diverse nature of what was classified as a telecare device, both thought telecare use was not a good proxy for having a disability or access requirement that meant a consumer was reliant on their landline. They referred to the 2013 Ofcom statement on 'Access to electronic communications services for disabled consumers'<sup>36</sup> (ECS Statement) which included an assessment of whether all care alarm users should be eligible for Priority Fault Repair and

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<sup>36</sup> Ofcom, 2013. *Access to electronic communications services for disabled consumers*. [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/53727/gc15\\_statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/53727/gc15_statement.pdf).

concluded that they should not. TalkTalk also believed that those telecare users who were most at risk would already be registered for Priority Fault Repair and that register would be a better way to identify those in need of a solution.

- 3.122 Virgin Media did not think that customers who had been barred from calling high cost call ranges should be considered to be at risk. It said this could simply be an indication that the customer had teenage children or wanted to control their bill; it was not an indicator, in isolation, of vulnerability.
- 3.123 [37] thought Ofcom's definition of 'at risk' was too broad and could result in different providers adopting different approaches leading to consumer confusion. It argued that Ofcom should work with the Office of the Public Guardian to determine an approach.

### Ofcom's response

- 3.124 We consider that customers who have a disability or accessibility requirement that means they are more reliant on their landline and those who do not have an alternative method of calling emergency organisations should be eligible for a protection solution.
- 3.125 While we note the respondents' comments that some customers could easily purchase a mobile and therefore have protection during a power outage, given the prevalence of mobile phone use across all age groups, we consider it reasonable to expect that many customers who do not have a mobile phone would face substantial barriers to getting one, for example, due to a lack of signal at home, lack of confidence in using an unfamiliar technology, or affordability. We are concerned that if the criteria for eligibility are too narrowly defined, there is a risk that some vulnerable customers will not be offered the protection they need. We therefore consider that those individuals that do not have a mobile should be eligible for a free solution. As noted above, we remain technologically neutral as to what that solution should be, however, and if a customer indicates that they are happy to use a mobile phone, we consider it could be appropriate for a provider to provide a mobile to them as opposed to offering an alternative and potentially more costly solution that the provider has available. We would expect providers to give clear instructions regarding the fact customers will need to keep the phone charged.
- 3.126 We consider that all landline customers that do not have an alternative means of contacting emergency organisations in a power outage at the home should be offered a solution that allows them to do so. Individuals that live in mobile not-spots will have no alternative means of contacting the emergency services during a power outage and therefore we consider that they should be eligible for a free protection solution.
- 3.127 As mentioned in paragraph 3.60, Ofcom's latest 'Connected Nations' report estimates that there is indoor mobile coverage by at least one mobile network operator for 99% of premises in the UK.<sup>37</sup> While this figure is lower for rural areas and mobile signal can depend

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<sup>37</sup> Figure calculated from coverage data collected as part of *Connected Nations*, available at: <https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-update-spring-2018>.

on the unique circumstances of a particular customer (such as the thickness of their walls and local signal obstructions), mobile coverage has continued to improve in recent years, through a mixture of industry investment, coverage obligations, and public funding. We expect there will continue to be improvements in coverage in the years ahead. We also note that while the lack of mobile coverage means a customer may be eligible for a protection solution, this does not necessarily mean that they will want one. Some customers will prefer to purchase an alternative means of powering their router which may, for example, enable them to power other items within the home that they wish to remain active during an outage.

- 3.128 We recognise the challenges to fibre investment in rural areas. However, given the importance of universal access to emergency services, we consider that our guidance regarding which customers should be eligible for a free protection solution is appropriate.
- 3.129 Within our Consultation, we included a number of suggestions regarding factors that could indicate that a customer might have a disability or accessibility requirement that meant they were more reliant on their landline and therefore may be eligible for a solution. Those remain suggestions of the type of indicators that may suggest that a customer has a disability or accessibility requirement, however, and not an exhaustive or prescriptive list of criteria that providers must adopt and which, if met, should automatically result in a customer being offered a solution. It remains the responsibility of providers to decide, reflecting on the range of data they hold or could obtain about their customers, which criteria they consider to be relevant when assessing a customer's needs and the particular approach they wish to take when communicating with different customers.
- 3.130 This means that while we consider the fact a customer uses a telecare device is useful information that may indicate that they are likely to be more dependent on their landline, it does not mean they are. Therefore, a provider may wish to discuss the specifics of a customer's disability with them prior to offering a solution or not, but the fact they are a telecare user may be a useful starting point to help determine the provider's approach when engaging with that customer.
- 3.131 In that respect, we consider that the inclusion of telecare as an indicator of disability or an accessibility requirement differs from the issue considered in the ECS Statement, where the assessment related to whether the use of a telecare device meant that a customer was automatically eligible for the Priority Fault Repair register.
- 3.132 Similarly, we consider that the fact a customer has network controlled calling or a bar on calls to high cost numbers may be one indicator of a disability or accessibility requirement that, when considered alongside others, could suggest that a customer is eligible for a protection solution.



## Impact on competition

### Summary of responses

- 3.133 BT, FCS, Hyperoptic, LFB, Post Office and TSA argued that our proposed guidance could have an impact on the level of competition within the voice market.
- 3.134 The Post Office, FCS and BT argued that if providers had to bear the costs of providing a protection solution, this could create a barrier to entry for smaller standalone voice providers who would find it difficult to absorb the costs due to small margins in comparison to larger providers and could impact on competition.
- 3.135 The Post Office also argued that the guidance penalised providers with a higher proportion of vulnerable customers. It had a large number of older and vulnerable customers and believed that our proposed guidance would result in a significant proportion of its customers qualifying for a free solution. It believed it should not be forced to incur higher costs due to the demographics of its customer base and that Ofcom needed to consider the proportion of vulnerable customers each provider had within their bases.
- 3.136 FCS and another respondent (confidentially) provided cost estimates. FCS thought that the likely cost of a UPS per connection was £75, with a managed install cost of circa £100 and ongoing maintenance costs of circa £35 every two to five years. In situations where the customer had a standalone landline for approximately £12 per month, smaller providers would not be able to recover their costs.
- 3.137 BT thought the volume of customers eligible for a protection solution under Ofcom's definition would impose additional costs on providers serving landline-only customers and could discourage them from supplying such customers so reducing competitive choice in that market. BT was also concerned that unless the volume of customers eligible for a solution was decreased, the overall costs of migrating customers to new VoIP services could disincentivise the rapid roll out of these services.
- 3.138 The Post Office and FCS suggested that funding of back-up solutions should be managed at the network level and therefore spread across industry. Post Office noted that until recently Openreach had provided battery back-up units as standard on all its FTTP lines.
- 3.139 Post Office, FCS, LFB and the TSA thought that if all providers developed their own solution and customers required different equipment if they switched suppliers this could disincentivise switching. Post Office noted that this risk would be mitigated if the protection solution was supplied at the network level and adopted across industry.
- 3.140 Hyperoptic also thought that new entrants could be disadvantaged by our proposals given that providers that already had a relationship with their voice customers would have a rich dataset to use to identify those at risk. In contrast, new entrants would have to engage in more nuanced and time-consuming communications with a new customer to assess their needs. It thought that sharing information related to a vulnerable 'flag' attached to a particular customer's record could be considered as part of an improved switching process.

## Ofcom's response

- 3.141 We recognise there may be some variation between providers in the proportion of 'at risk' customers. However, given the essential safety of life nature of the requirement, we do not consider it is appropriate that the scope of eligibility for protection be reduced or our expectations of providers should vary depending on the make-up of their customer base.
- 3.142 We also consider that the extent of likely take-up and costs of the solution have been overstated in some responses.
- 3.143 On take-up, while we are not able to determine the proportion of customers that are likely to take up a solution due to a disability or accessibility requirement, we understand that the proportion of customers that are registered for Priority Fault Repair, which providers have identified as one indicator of the number who may be dependent on their landline, is likely to be under 4%.<sup>38</sup>
- 3.144 In respect of providers concerned that they have a higher proportion of older customers who may be more likely to be dependent on the landline because they do not have a mobile phone, we recognise that mobile phone ownership is lower amongst older customers. However, there has been a marked increase in take-up by older customers over the last five years: 66% of over 75s and 79% of over 65s owned a mobile in 2018 compared with 52% and 67% respectively in 2013.<sup>39</sup> This trend is likely to continue in the coming years and when considered alongside the likely improvements in mobile coverage, the volume of customers that are eligible for a solution because they only have a landline and no alternative means to call the emergency services is likely to fall between now and the time period over which the PSTN is switched off.
- 3.145 Finally, we consider that some customers that are eligible for a solution may decide they do not require one. For example, as noted in paragraph 3.127 above, some customers may prefer to purchase an alternative means of powering their router which may be better suited to their needs.
- 3.146 On costs, respondents have also suggested a range for the amount they anticipate that a protection solution will cost per unit depending on the nature of the solution, the functionality offered and whether it needs to be installed by the provider. While we appreciate that costs will vary depending on those factors, as noted in paragraph 3.38, we agree with the suggestion made by some respondents that industry could benefit from

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<sup>38</sup> Those eligible for Priority Fault Repair are households that include someone who is registered as Chronically Sick & Disabled and/or housebound due to a chronic long-term illness or disability. The ECS Statement included figures for the number of BT Retail and Virgin Media fixed voice customers that were registered for Priority Fault Repair in 2013. Those figures combined with 2013 [subscriber data](#) suggest that approximately 0.84% of BT's and 0.09% of Virgin Media's fixed landline customers in 2013 were registered. Even if take up has improved four-fold in the intervening years, the volume of BT's customer base on the register would still be less than 4% and Virgin Media's less than 0.5%.

<sup>39</sup> *Ofcom Technology Tracker*. [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/113169/Technology-Tracker-H1-2018-data-tables.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/113169/Technology-Tracker-H1-2018-data-tables.pdf).

discussing their plans and trying to adopt a more collaborative and consistent approach where appropriate, and therefore we intend to help facilitate those discussions.

- 3.147 On providers' ability to recover the costs of providing a solution from consumers who take only a landline service (as opposed to a dual play customer who has a landline and broadband connection), Ofcom research indicates that there has been a steady increase in the number of customers taking up dual play (i.e. landline and broadband services) between 2013 and 2018, particularly amongst over 65s and over 75s.<sup>40</sup> These customers can be expected to be paying more for those services which should allow providers to recoup more of the cost of supplying customers with a protection solution where required.
- 3.148 More generally, on the point that our guidance may impact upon the level of competition within the voice only market, we note that Ofcom's 'Review of the market for standalone landline telephone services'<sup>41</sup> identified a lack of competition in provision of services for voice-only customers. In our concluding statement, published in October 2017, we noted that while we were introducing measures to promote competition, including accepting BT's voluntary line rental price cut, there were challenges to their being successful.
- 3.149 On switching, although providers are developing their own solutions, we do not consider the need for a consumer to install additional new equipment when they change providers will disincentivise them from switching. We note that the installation process, if carried out by the consumer themselves, will be straightforward, akin to installing a new router. As noted in paragraph 3.90, if the installation were particularly complex, or difficult for some customers, such as older individuals or those with poor mobility, we would expect the provider to offer support. Further, given there is no additional cost to customers if they are considered to be at risk, we consider our guidance does not present any financial barrier to switching providers. A more collaborative approach, as discussed in paragraph 3.146, could include using common technologies which would also address concerns about switching costs.
- 3.150 We acknowledge that different providers hold varying amounts of data regarding their customers and that new customers will present the greatest challenge in terms of making an assessment as to whether they are at risk or not. When identifying at risk customers we consider providers need to use the method that is most appropriate for their business model, sales process and the information they hold about their customers, and note that they may rely on customers self-identifying as at risk, once informed of the nature of the risk. In addition, if a customer has already been identified as at risk by their existing supplier, it is likely that they will just need to communicate this to a new supplier, who will not need to incur a cost for re-evaluating them.

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<sup>40</sup> Take-up of dual play services has increased across all consumers from 36% in 2013 to 43% in 2018. For over 65s this has increased from 28% to 39%, and for over 75s from 20% to 36%, over the same period (*Ofcom Technology Tracker*).

<sup>41</sup> Ofcom, 2017. *Review of the market for standalone landline telephone services: Statement*.

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0015/107322/standalone-landline-statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0015/107322/standalone-landline-statement.pdf).

## Principle 2 conclusion

3.151 We do not intend to make any revisions to Principle 2 and continue to consider that customers that are dependent on their landline because they have no alternative means of contacting the emergency services or have a greater propensity to call the emergency services, should be offered a free protection solution. This includes customers that do not own a mobile phone, potentially out of choice, as well as those that do not have reliable indoor mobile coverage. While we have carefully considered respondents' concerns that the guidance could result in competition issues, we believe that providers may have overestimated the number of their customers that will require a protection solution and the likely costs involved. We also consider that our eligibility criteria are proportionate given the potential risk to safety of life if customers are not adequately protected.

## **Principle 3: Providers should i) take steps to identify at risk customers and ii) engage in effective communications to ensure all customers understand the risk and eligibility criteria and can request the protection solution**

3.152 The Consultation proposed that providers should take steps to identify customers who may be reliant on their landline by utilising information that is already available to them about their customers and gathering further information as appropriate. For example, we suggested that a provider could use Ofcom's mobile checker to support their assessment of whether a customer is likely to be at risk due to poor mobile signal.

3.153 We thought providers are in the best position to think through the practicalities and assess the most effective way to gather any further information about their customers that they need to identify those that are at risk. While not providing detailed guidance on the questions that providers should ask their customers, or the method of asking those questions, we suggested that where a provider is engaged in one-to-one communication with the customer as part of the sales process, the provider could ask the customer relevant questions where necessary.

3.154 In addition, we set out our expectation that providers should engage in effective communications to ensure that all of their customers:

- understand the risk of the phone not working in a power cut;
- understand the eligibility criteria for receiving the solution free of charge; and
- can request the solution even if they have not been identified as at risk.

3.155 We said we considered it appropriate for providers to make the solution available to customers who were not identified as at risk but still requested the solution, but that whether to charge for the solution in those circumstances was at the discretion of providers.

## Take steps to identify at risk customers

### Summary of responses

- 3.156 In relation to how at risk customers could be identified, we received comments from BSG, BT, the CCP, KCOM, Gigaclear, Hyperoptic, ITSPA, Magrathea, Post Office, Sky, Vonage, Verizon and [redacted].
- 3.157 Some respondents queried how providers could be expected to identify customers that were subject to longer power outages and therefore might require additional protection.<sup>42</sup> BT noted that power outages had a number of sources and were random in nature, so simply asking customers if they have a history of long-duration outages was unlikely to be accurate. KCOM suggested it was the individual customer's duty to provide evidence to their provider that they were subject to such outages. BSG argued providers should be free to rely on customers self-identifying as at risk.
- 3.158 A number of respondents had queries or concerns relating to how they could assess whether a customer had mobile coverage or not, to inform both decisions regarding whether they were eligible for a protection solution and whether they could be offered a solution that relied on the mobile network.
- 3.159 Gigaclear said that, if required, it would be very difficult to assess whether every voice customer had mobile coverage and such an assessment could result in an increase in call waiting times and the costs of provision. It would be wholly dependent on Ofcom's mobile coverage checker and so its usability needed to be improved. Similarly, Hyperoptic welcomed clarity on how accurate and up-to-date the information used by Ofcom's mobile coverage checker was. It also thought Ofcom should allow providers access to the aggregate underlying data utilised by the checker.
- 3.160 BT did not consider that the Ofcom mobile coverage checker would help providers assess whether a customer was genuinely at risk. It noted that the data utilised by the checker did not take individual circumstances into account. Therefore, the checker could return false positives and false negatives, and could not be relied upon to give an accurate result that providers could use to establish a customer's eligibility for a solution.
- 3.161 Sky said if Ofcom was minded to require providers to proactively check mobile coverage against a coverage checker tool, it should make clear that there only needed to be a single point of reference and that this could be either the Ofcom coverage checker or the provider's own (where they had one). It noted, however, that mobile checkers were not currently integrated within its sales process and could not be easily incorporated without material cost and resource implications, as well as a material adverse impact on the speed and flow of the sales journey. Given the Ofcom estimate that 94% of UK adults personally own or use a mobile phone, Sky considered it was reasonable and proportionate to expect customers to have an understanding of the mobile phone coverage in their home and to be

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<sup>42</sup> See also 'A minimum of one hour' section, commences page 17.

able to advise a provider of the suitability of a protection measure that relied on a mobile phone when prompted.

- 3.162 Sky believed that our suggestion that providers “should ensure that on an ongoing basis they are keeping up to date with any information that becomes available which may help identify at risk customers and they are updating their processes” was too broad and did not make providers’ obligations clear. Sky did not consider it was proportionate or practical for providers to be constantly monitoring external data sources for possible material updates regarding their customers, especially when their customer base was large. Therefore, Sky thought the guidance needed to be amended to be more specific. Sky considered that the obligation on providers to identify newly at risk customers should be limited to circumstances where customers, or third parties acting on their behalf, provide relevant information to their provider either proactively or when prompted. Similarly, KCOM thought providers should make an assessment based on information provided through the sales process and customer support.
- 3.163 [X] highlighted the difficulty of judging vulnerability, particularly given that such an assessment was very subjective. It also argued that call operators would not be incentivised to conduct a robust assessment and offer a high volume of solutions.
- 3.164 Vonage thought an assessment of whether a customer was dependent on their landline or not could result in a significant administrative burden for providers. It was also concerned about the new obligations providers had under the General Data Protection Regulation (GDPR) when collecting and storing data about their customers, such as personal data regarding their health. It suggested that Ofcom should set up a centralised register regarding at risk customers that providers could access on a strict ‘need to know’ basis in connection with the supply of telephony services to the data subject. Similarly, Magrathea and Verizon noted that they did not deal with end-users directly and the effort to understand their needs/assess whether they needed a solution presented difficulties. ITSPA agreed that the requirement to identify at risk individuals could create a disproportionate demand on resources, both in terms of establishing who needed a solution and then maintaining that information.
- 3.165 BSG argued Ofcom should not be overly prescriptive and should allow providers to innovate, giving an example of a provider allowing customers to self-determine whether they would be considered vulnerable or at risk.
- 3.166 The Post Office thought that Ofcom and Ofgem should work together to determine the areas which experience longer power cuts and overlay with mobile coverage maps to identify customers that are most at risk and share this information with providers.
- 3.167 The CCP emphasised the importance of a provider’s Priority Fault Repair register as a means of identifying at risk customers and believed it should be promoted to all customers. The CCP also suggested that Ofcom, Ofgem and providers should work collaboratively with those who had statutory responsibility for the care of at risk and vulnerable adults to share best practice and, where possible and relevant, information regarding those customers.

- 3.168 BT understood the guidance to mean that any assessment of eligibility needed to happen pre-sale. BT felt that this would add unnecessary time to the sales process and could lead to the customers disengaging from the process. It argued that providers would need to carry out at least part of the assessment after the point of sale.

### **Ofcom's response**

- 3.169 Providers are free to choose the most effective way to identify those customers that experience regular prolonged power outages, however, we consider it could be appropriate for them to rely on customers self-identifying as at risk in response to a provider's enquiries. We do not consider that it would be appropriate for providers to put onerous requirements on customers to evidence a particular need to access a solution for fear of genuinely at risk customers being dissuaded from requesting protection or failing to provide the correct evidence.
- 3.170 The information that is available from Ofcom's mobile coverage maps and online apps cannot definitively assert whether or not a customer would be able to make an emergency call from within, or in proximity to, a building. However, it may help providers to gauge the potential extent to which customers could be vulnerable due to lack of mobile coverage. This can help forward planning in determining the volumes and costs of providing solutions either on a regional or national basis. We are exploring how to make more and better mobile coverage information available.
- 3.171 When assessing the individual needs of a customer, the provider will need to consider specific information that the customer may provide (for example, indicating that mobile calls are possible from the premises) or that is acquired through the provider's own steps (for example, by testing for coverage when installing the service).
- 3.172 We consider that providers need to develop robust processes to ensure that front line staff have the sales scripts and information they require to determine whether or not a customer is eligible for a free protection solution and to offer it accordingly. Providers should ensure they have a clear set of criteria in place that all staff understand and apply in an objective way. Similarly, providers should have a process in place for cases where a customer disagrees with the assessment that has been conducted and believes they meet the eligibility criteria and should be offered a free solution.
- 3.173 We maintain that providers are in the best position to think through the practicalities and decide upon the most effective way for them to work with and identify customers that are at risk, bearing in mind the specifics of their own business. We would encourage providers to discuss their approaches to identifying at risk customers and to share best practice. If they wish to develop relationships with other third parties such as Ofgem to obtain relevant data, they are free to explore this. While we have been liaising with Ofgem on aspects of this work, including the potential impact on the energy sector, it is not for Ofcom to determine which of a provider's customers require a solution. As mentioned above, if a provider wishes to rely on a sales process that allows the customer to self-identify as at risk, they may do so. They must ensure, however, that the customer fully

understands the risk of their phone not working in a power outage and the eligibility criteria for receiving the solution free of charge, and why they may be at risk or not.

- 3.174 We do not envisage that providers will need to collect and retain substantially more personal data regarding their customers, particularly given a number of providers will already hold such confidential data, for example, whether a customer is registered for Priority Fault Repair or uses text relay. In addition, we note that the new General Condition on ‘Measures to meet the needs of vulnerable consumers and end-users with disabilities’<sup>43</sup> (GCC5) includes a requirement that providers establish, publish and comply with policies and procedures to ensure that the needs of vulnerable consumers are adequately considered and met. We stipulate that those policies and procedures must include “how information about the needs of Consumers who the Regulated Provider has been informed or should otherwise reasonably be aware may be vulnerable will be recorded...”. Therefore, we consider that providers should already be considering how to record and retain sensitive information regarding their customers in a GDPR compliant way.
- 3.175 In response to Vonage’s suggestion of an Ofcom centralised database, we note that Ofcom does not have a relationship with providers’ customers and therefore does not hold that data. In relation to data-sharing more generally, the UK Regulators Network is publishing a report on a data-sharing pilot in October and providers may wish to ensure they are aware of any relevant developments.
- 3.176 As stated in our Consultation, we consider that the fact a customer is registered for Priority Fault Repair may indicate that they are reliant on their landline and therefore may be eligible for a protection solution.
- 3.177 Our guidance on GCA3.2(b) sets out our expectations of the measures providers should take to ensure compliance with the GC. In many respects it is not prescriptive but sets out the factors they should consider when formulating their approach. In relation to how best to carry out an eligibility assessment and whether this process should happen pre- or post-sales, we would advise providers to ensure that customers have sufficient information regarding the risks and eligibility criteria for a protection solution to enable them to make an informed decision prior to agreeing to be migrated to, or purchasing, a new VoIP service. If a customer’s eligibility assessment is completed post-sale we would expect providers to seek to find a mutually agreed outcome, which might in some circumstances include allowing the consumer to exit their contract.

## Engage in effective communications

### Summary of responses

- 3.178 LFB, Shropshire Council, TalkTalk and Virgin Media commented in relation to engaging in effective communications.

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<sup>43</sup> See the revised General Conditions of Entitlement, page 43.



- 3.179 No respondents disagreed with our proposition that providers need to engage in effective communications to enable customers to understand the risk of their phone not working during a power outage and the eligibility criteria applied, so customers could understand why they are, or are not, being offered a solution.
- 3.180 Virgin Media and TalkTalk did not believe that it was proportionate for customers to request a protection solution if they did not meet the eligibility criteria. TalkTalk noted that those customers would not be dependent on their landline and so would have other ways to access the emergency services.
- 3.181 LFB emphasised that not all customers would understand the risks and eligibility criteria, so providers should consider how they communicated with those who have a duty of care over others, and care homes, sheltered housing or other specialised housing. Shropshire Council thought that communications from providers intended to increase awareness needed to be made through channels such as local authorities, councils, housing and care providers.

### **Ofcom's response**

- 3.182 As noted in our Consultation, some customers who are at risk may not wish to declare this to their provider for a variety of reasons. Similarly, some individuals who own a mobile, particularly those who are older and less confident using it, may not be comfortable relying on it as a means to ensure they have continued access to the emergency services during a power outage. We therefore consider that if customers not identified as at risk request a solution, providers should ensure it is available to them. Whether to charge for the solution in those circumstances is at the discretion of providers.
- 3.183 We agree that providers need to be mindful of how best to clearly explain the risks and eligibility criteria to their customers and those with a duty of care.

### **Principle 3 conclusion**

- 3.184 Having considered the points raised we do not intend to make any changes to Principle 3. We consider that providers have a responsibility to identify at risk customers and engage in effective communications to ensure all customers understand the risk and eligibility criteria and can request the protection solution. We have clarified, however, that our guidance is not prescriptive regarding the approach that providers should take to meet their obligations and that while we have suggested a number of ways that providers can identify at risk customers, providers need to decide the most effective way for them to do so considering their own processes and the information they collect and hold about their customers.

## **Principle 4: Providers should have a process to ensure that customers who move to a new house or whose circumstances change in some other way are aware of the risk and protection solution available**

- 3.185 In the Consultation we noted that after customers have migrated to, or taken up a VoIP service, they may become eligible for the solution as, for example, they move to a new house and their indoor mobile coverage changes, or due to health changes. We considered, therefore, that providers should have a process in place to ensure that these customers are aware of the risk and protection solution available to them.
- 3.186 We noted that we did not intend to be prescriptive about the process, but that we would expect providers to make customers aware of the risk and protection solution(s) available on an ongoing basis by, for example, ensuring that information relating to the risk and protection solution is clearly accessible and on appropriate pages on their website, is set out in appropriate correspondence with their customers and/or is included in scripts/announcements used when customers contact their provider for other matters. We made clear that those examples were indicative and that providers could adopt different approaches that had the same effect.
- 3.187 The Consultation also stated that providers should act appropriately when given information about changes in customers' circumstances. We noted that a customer may inform the provider through various channels that their circumstances had changed in some way and that providers should also be alert to information being provided to them about their customers by third parties such as charities and local authorities. The Consultation said if a customer was identified as having become reliant on their landline, then they should be offered an appropriate solution.

## **Make customers aware of the risk and protection solution(s) available on an ongoing basis**

### **Summary of responses**

- 3.188 In relation to the expectation that providers would make customers aware of the risk and protection solution(s) available on an ongoing basis, we received comments from BT, Gigaclear, Sky and Virgin Media.
- 3.189 Several respondents agreed that making customers aware of the risk of their phone not working in a power outage and the protection solutions available on an ongoing basis was important. Gigaclear and Virgin Media welcomed the fact that Ofcom was not being prescriptive regarding the means by which this should be achieved.
- 3.190 BT and Virgin Media argued that Ofcom's suggestion that providers include notifications on an ongoing basis in sales scripts and announcements was impractical. While acknowledging that the advice was not prescriptive, Virgin Media noted that the customer may be calling

about their Pay TV package or mobile service and so a mandatory script about their IP phone service would be out of place and potentially confusing. Further, agents had a number of other statements to read in various situations, so to include additional information could overwhelm the customer and lead to disengagement. BT felt that making the information available on providers' websites and in appropriate correspondence, as well as ensuring sales agents acted on information provided by customers, would be sufficient.

- 3.191 Sky thought it would be proportionate to proactively remind customers no more than once per annum by, for example, including information in appropriate correspondence. It noted that if Ofcom were to insist on more frequent proactive communication, this would place an undue burden on providers and dilute the importance of the messaging. Where a provider engaged in effective communications to ensure all customers understood the risk and eligibility criteria, it should be the responsibility of the customer to inform the provider of any change in their circumstances.

### **Ofcom's response**

- 3.192 We maintain that if information is made available to customers about the risk and protection solution(s) available on an ongoing basis, then they are more likely to inform their provider if their circumstances have changed. Providers are best placed to decide the most effective way to ensure customers are reminded of that information so they are prompted to consider whether their circumstances have changed and whether they now require a protection solution. As advised previously, including accessible information on their websites, in appropriate correspondence with customers, or in scripts when a customer calls their provider regarding their voice service, are all methods that a provider may wish to adopt to achieve this.

## **Act appropriately when given information about changes in customers' circumstances**

### **Summary of responses**

- 3.193 In relation to the expectation that providers would act appropriately when given information about customers' circumstances, we received comments from LFB, Shropshire Council, Sky, TalkTalk and Virgin Media.
- 3.194 There were questions over how proactive providers would need to be in keeping up with changes in their customers' circumstances. Sky said it was not in regular contact with, nor did it intend to put in place information sharing agreements with, charities or local authorities. It was concerned about using information without the knowledge or consent of the customer and considered that providers should only be obliged to act on information provided directly to the provider by the customer themselves or an authorised representative on their behalf, such as a guardian. Virgin Media had similar concerns if providers were expected to act on information from third parties. While it accepted that

information from third parties could be relevant to the way a customer's account was managed, there are limits to what can be done without the consent of the customer, particularly following the introduction of the GDPR.

- 3.195 In contrast, Shropshire Council proposed that providers should develop links with local authorities to identify customers and meet their needs, including optimising the communication that local authorities make about telecare and assistive technology. It also thought that this guidance should include requirements for providers to notify local authorities and housing providers about the process for monitoring changes in customers' circumstances.
- 3.196 Sky thought that there could be some difficulty in assessing whether a change in circumstances could also lead to a change in a customer's risk profile. For example, if a customer was moving home it might not be possible to determine whether they would have mobile coverage in their new home before they had taken up residence at the premises.
- 3.197 TalkTalk recommended that the Principle should be amended to clarify that providers only had to act on information regarding changes in the customer's circumstances if those changes affected the customer's dependence on their landline.
- 3.198 LFB queried how providers were supposed to respond to changes in a customer's circumstances that were temporary in nature, such as physical injuries. It was concerned that given the change was temporary, it might not be picked up by the provider.

### **Ofcom's response**

- 3.199 Providers should have processes in place that ensure they are alert to any information being provided to them about their customers that may affect whether they are reliant on their landline or not. If providers have, or wish to develop, a relationship with a third party such as a local authority or charity to help identify customers whose circumstances have changed, then they are free to do so. However, if providers are confident that they have other sufficiently reliable processes, then they are under no obligation to do so. In addition, while we consider that it may be sufficient for a provider to rely on customers taking responsibility for informing them of any relevant changes, providers will need to be confident that customers are aware of the need to, and how to, do so.
- 3.200 We consider that our guidance makes clear that we only expect providers to act on information they receive about a change in a customer's circumstances if that change affects their reliance on their landline. Therefore, we do not intend to revise the Principle.
- 3.201 Related to that, we would expect providers to consider whether a change in circumstances is of sufficient severity to merit the deployment of a solution. Where a change is likely to be short-lived and the customer can take other steps to ensure they are adequately protected then we would not anticipate that the provider would need to provide a solution, particularly given the likely delay between the customer informing the provider and the solution being provided.

## **Principle 4 conclusion**

- 3.202 We do not intend to make any changes to Principle 4 and consider that providers should ensure that their customers are aware of the risk(s) and protection solutions available on an ongoing basis. Similarly, providers should act appropriately if they are given information about changes to a customer's circumstances. We have clarified, however, that the means by which providers communicate with customers and ensure they hold up-to-date information is for providers to decide upon; providers should not feel compelled to follow the examples suggested within the guidance if they believe an alternative means will work more effectively for their business and achieve the same end.

## **Conclusion**

- 3.203 A copy of the final guidance which incorporates the clarifications we have made within this document can be found in Annex 1.
- 3.204 As this guidance relates to a General Condition that is already in place, it applies immediately.

# A1. Final guidance

## Scope of the guidance

- A1.1 This guidance sets out our expectations of the measures providers should have in place to ensure that customers using voice services over a broadband connection are able to contact emergency organisations in the event of a power cut at their home or premises. The guidance takes the form of four Principles for providers to follow.
- A1.2 The obligations in GCA3.2(b) are broad, and the Principles set out in this document are not intended to be definitive guidance on compliance with the Condition. Providers should continue to ensure they are taking all other necessary measures to maintain uninterrupted access to emergency organisations.
- A1.3 In many respects this guidance is not prescriptive but sets out the factors providers should consider when formulating their approach. In light of the specific circumstances of each case, we would take account of providers' regard to the guidance when assessing whether they were meeting their obligations and each case would be considered on its merits. However, the guidance does not have binding legal effect and we may depart from it, with reasons, in individual cases. It may be subject to further review and revision from time to time.
- A1.4 We would encourage providers to keep records of the process that they undertake in deciding the measures to put in place to meet their obligations under GCA3.2(b), as well as any risk assessments completed in respect of the decision(s). Such documentation is likely to assist in any investigation we carry out, particularly with regard to customers who are reliant on their landline.
- A1.5 In 2007 Ofcom published guidelines entitled 'Guidelines on the application of PATS obligations to VoIP service providers' (the 2007 Guidelines<sup>44</sup>) which provided guidance on how Ofcom would look to investigate potential contraventions of the then GC3.<sup>45</sup> As there have been significant VoIP market and technical developments since 2007 (and changes to the General Condition<sup>46</sup>), where there is any overlap, this guidance takes precedence.

## Application of the Principles

- A1.6 The obligations in GCA3.2(b) apply to all providers of a Publicly Available Telephone Service (PATS) and all providers of a Public Electronic Communications Network (PECN) over which a PATS is provided. This would include any 'reseller' of a PATS service, as well as any

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<sup>44</sup> Ofcom, 2007. *Regulation of VoIP Services: Statement and publication of statutory notifications under section 48(1) of the Communications Act 2003 modifying General Conditions 14 and 18*, Annex 5.

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/55571/voipstatement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/55571/voipstatement.pdf).

<sup>45</sup> GC3 imposed substantively the same requirement as current GCA3.2.

<sup>46</sup> For example, Article 23 of the Universal Service Directive and the Condition are no longer restricted to provision of publicly available telephone services at fixed locations.

provider of an OTT service that meets the PATS definition.<sup>47</sup> Providers should take account of the Principles when considering both domestic and business customers.

- A1.7 The guidance does not apply to providers of PATS, or of a PECN over which a PATS service is provided, that already benefit from network-based resilience (such as traditional copper-based voice services that are powered by the local exchange during a power outage).
- A1.8 For those providers who offer only the network element or only the VoIP service to the customer, we acknowledge that there may be situations where it may not be possible and/or proportionate to take all the measures set out in the Principles.
- A1.9 Ofcom would consider compliance with GCA3.2(b) on a case-by-case basis by, amongst other things, considering whether it would have been technically feasible and/or within the provider's reasonable control to take the measures set out in the Principles. This would be the same if the provider was offering only the network element or only the VoIP service to the customer.

## **Providers should have at least one solution that enables access to emergency organisations for a minimum of one hour in the event of a power outage in the premises**

- A1.10 We consider that providers should have at least one solution which would allow customers to access emergency organisations in the event of a power outage at their premises.

### **Providers should have at least one solution**

- A1.11 The obligations in GCA3 are technology neutral and therefore we do not intend to prescribe what type of solution providers should employ for the purposes of providing access to emergency organisations in the event of a power cut at the customer's premises.

### **A minimum of one hour**

- A1.12 We consider that a solution would in most cases meet Principle 1 if it offered the customer the ability to access emergency organisations on the emergency call numbers of 112 and 999 for a minimum of one hour following a power cut. Providers must also ensure equivalent access<sup>48</sup> to emergency organisations for those customers that use textphones/text relay. These customers cannot dial 999 or 112 directly but use access codes, typically 18000.
- A1.13 However, some individual customers may require protection beyond one hour, for example if they live in households that have a history of long-duration power outages. We consider therefore that providers should take appropriate steps to identify and address the needs of customers who would benefit from additional protection.

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<sup>47</sup> See 'Application of the Principles' section of the guidance (pages 9 to 14) for further detail.

<sup>48</sup> Article 26(4) of the Universal Service Directive (as amended) requires Member States to ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users.

- A1.14 Providers should ensure that the protection solutions they deploy give customers sufficient talk time to allow the caller to describe the situation they are in and what help is required. Similarly, call agents need to be able to convey any life-saving information where relevant.
- A1.15 In all cases, the duration of the protection being offered by the solution, including the amount of talk time, should be made clear to the customer.

### **Enables access**

- A1.16 For the solution to enable access to emergency organisations on an ongoing basis, it will need to be properly installed and maintained.
- A1.17 We do not intend to provide detailed guidance on how providers should manage the provision and maintenance of their solutions. We would expect providers to have procedures and practices in place appropriate to the solution adopted that will ensure that the installation of the solution is supported effectively and it continues to work on an ongoing basis.
- A1.18 Whatever the approach taken, some action may be required on the part of the customer to ensure the solution continues to function. For example, even where the provider takes full responsibility for maintenance, the customer may have to allow the provider access to the property, to replace or service the equipment. In this respect, we would expect providers to do everything within their reasonable control to ensure that the solution is properly maintained.

### **Emergency organisations**

- A1.19 At a minimum, the solution should allow the customer to contact emergency organisations using the emergency call numbers 999 and 112. Providers must also ensure equivalent access<sup>49</sup> to emergency organisations for those customers that use textphones/text relay.
- A1.20 The customer should be made aware of the numbers that they are able to dial in the event of a power cut.

### **The solution should be suitable for customers' needs and should be offered free of charge to those who are at risk as they are dependent on their landline**

- A1.21 We consider that providers should offer and implement solutions that are appropriate for the individual needs of their customers and providers should, as a minimum, offer the solution free to those customers who are at risk as they are dependent on their landline.

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<sup>49</sup> Article 26(4) of the Universal Service Directive (as amended) requires Member States to ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users.



## Suitable for customers' needs

- A1.22 When considering whether the solution is suitable for the needs of the customer, we would expect providers to be giving due consideration to the customer's situation. For example, if the provider is offering a solution which relies on mobile signal to work, then they should ensure that the customer lives in premises that have mobile coverage. Similarly, providers may need to provide tailored solutions for customers that use textphones/text relay, taking into account whether they own a mobile, and whether that mobile can access text relay via the Next Generation Text app<sup>50</sup> at their home or premises, or if the customer has registered for emergency SMS (available on all mobile phones, not just smartphones<sup>51</sup>).
- A1.23 Relevant considerations will depend on the type of solution that the provider is offering, and therefore we do not intend to provide detailed guidance on what would or would not be suitable for every potential situation. However, we would expect the provider to demonstrate that due consideration had been given to the appropriateness of any solution offered given the needs and circumstances of the customer.
- A1.24 We would expect providers to explain to customers the pertinent features of the solutions or measures that are provided. This should draw particular attention to any inherent limitations or to responsibilities on customers necessary to ensure that the protection provided is maximised. The provider should satisfy itself that the customer understands any responsibilities and is able to fulfil them without undue difficulty.
- A1.25 For example, if the provider's solution powers the broadband router itself, then the customer will require a corded phone connected to the router in order for them to be able to access the emergency organisations. We do not consider that it would be proportionate to expect providers to put further additional measures in place to ensure a cordless phone will work in the event of a power cut. However, we would expect the requirement to have a corded phone to be made clear to the customer, and for the provider to satisfy themselves that the customer can access one.<sup>52</sup>

## Offered free of charge

- A1.26 Providers should, as a minimum, offer the solution free of charge to those customers who are at risk as they are dependent on their landline.
- A1.27 Some customers who are offered the solution may choose to decline it if they feel they have alternative protection, and they should be able to make this choice. In this scenario,

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<sup>50</sup> <https://www.ngts.org.uk/>.

<sup>51</sup> <https://www.ngts.org.uk/how-to-use-ngt/contact-999-using-ngt.html>.

<sup>52</sup> Providers should bear in mind that some consumers may not be aware that their cordless phone will not work in the event of a power cut. Our research suggests that 22% of all consumers who own a cordless phone may not be aware that this will not work in the event of a power cut and this percentage increases for those consumers living in homes with a landline but no mobile phone. See *Ofcom Phone Use in the Home Survey*, response to question 8. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0016/114217/phone-use-home-survey.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0016/114217/phone-use-home-survey.pdf).

the provider should ensure the fact that the phone will not work in the event of a power cut is clearly highlighted to the customer, and the process and decision should be carefully documented.

- A1.28 It should be noted that offering the solution free of charge to those dependent on their landline is a minimum, and providers may choose to provide the solution free of charge to more/all of their customers if they consider that appropriate.

## Customers dependent on their landline

- A1.29 Some customers remain dependent on their landline because, for example:
- they have disability or accessibility requirements that mean they are more reliant on their landline; and/or
  - they do not have an alternative method of calling emergency organisations.
- A1.30 These customers would be more 'at risk' as they are reliant on their landline to contact emergency organisations in the event of a power cut. It is these customers who we consider should be offered the solution free of charge.
- A1.31 We do not intend to provide a prescriptive list of the customers who would be more at risk. However, we provide some further detail and non-exhaustive examples below.

## Customers whose disability and/or accessibility requirements mean they are reliant on their landline

- A1.32 Although not all customers who have disability or accessibility requirements will be more reliant on their landline, some will be because:
- this is their primary means of communication; and/or
  - they have more of a propensity to contact emergency organisations which increases the risk that they would rely on their landline in a power cut.
- A1.33 We consider that this could include some customers who are registered (or indicate a need for) some of the measures set out in General Condition C5<sup>53</sup> such as:
- Priority Fault Repair Service;
  - bills and contracts in alternative formats such as large print and Braille;
  - third party bill management; and
  - free directory enquiries.
- A1.34 In addition, there may be other indicators that the customer may have disability or accessibility requirements that make them more reliant on their landline, for example:
- they have a telecare system (or similar);

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<sup>53</sup> See the revised General Conditions of Entitlement, pages 43-47.  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/112692/Consolidated-General-Conditions.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/112692/Consolidated-General-Conditions.pdf).

- they use a textphone on a fixed line<sup>54</sup>;
- they are signed up to network controlled calling and/or 123 or 118 barring (or similar<sup>55</sup>);
- they have been identified as a person within scope of the Chronically Sick and Disabled Persons Act 1970; and/or
- they identify as having a disability or accessibility requirement that would indicate they are more reliant on their landline.

### **Customers who do not have an alternative method of calling emergency organisations**

A1.35 There will be customers who, irrespective of disability or accessibility needs, would be reliant on their landline to contact emergency organisations because they do not have an alternative method of calling emergency organisations, for example:

- they do not own a mobile; or
- they own a mobile but have limited or no mobile signal in their homes (on any network).

### **Providers should i) take steps to identify at risk customers and ii) engage in effective communications to ensure all customers understand the risk and eligibility criteria and can request the protection solution**

A1.36 We consider that providers should take steps to identify their customers who may be reliant on their landline. In addition, providers should engage in effective communications to ensure that all of their customers:

- understand the risk of the phone not working in a power cut;
- understand the eligibility criteria for receiving the solution free of charge; and
- can request the solution even if they have not been identified as at risk.

### **Take steps to identify at risk customers**

A1.37 We would expect providers to take all necessary steps to identify those customers who are at risk as they are dependent on their landline. We would expect this to include:

- a) utilising information that is already available to them about their customers; and
- b) gathering further information as appropriate.

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<sup>54</sup> Although the relay service is now available via the NGT app for smartphones and other connected devices, text relay is still available via textphones over fixed lines.

<sup>55</sup> These services support customers who may have short-term memory loss, learning difficulties, dementia or an Obsessive Compulsive Disorder.

## Information available

- A1.38 A provider may already hold information about its customers and/or the location of the customer's premises that could help to identify which of its customers may be reliant on their landline. In the first instance, we consider providers should use this information to identify at risk customers.
- A1.39 In relation to mobile signal, providers may wish to utilise information available on Ofcom's mobile checker<sup>56</sup> to gauge the potential extent to which customers could be vulnerable due to lack of mobile coverage. Providers are likely also to hold or have access to other relevant information in relation to mobile coverage for their customers in distinct locations e.g. areas with no, or poor, mobile coverage from any provider.
- A1.40 When assessing the individual needs of a customer, the provider will need to consider specific information that the customer may provide (for example, indicating that mobile calls are possible from the premises) or that is acquired through the provider's own steps (for example, by testing for coverage when installing the service).
- A1.41 We appreciate that some providers will hold more information than others, for example depending on how long they have been operating and whether they also have a mobile offering.
- A1.42 Providers should ensure that on an ongoing basis they are keeping up to date with any information that becomes available which may help identify at risk customers and they are updating their processes.

## Information gathered

- A1.43 We think that providers are in the best position to think through the practicalities and assess the most effective way to gather any further information about their customers that they need to identify those who are at risk.
- A1.44 We do not intend to provide detailed guidance as to the questions that providers should ask their customers, or the method of asking these questions. This will depend on a variety of factors such as how much information the provider already holds about the customer, the type of customer base (e.g. domestic or business customers) and the type of interaction the provider has with the customer (e.g. phone or internet sale, and whether a home visit is required).
- A1.45 We consider for example that, where a provider is engaged in 1-2-1 communication with the customer as part of a sales process, the provider could ask the customer relevant questions where necessary e.g. about whether the customer owns and is comfortable using a mobile phone in their home. Similarly, if equipment needs to be installed at the customer's premise when they migrate to a VoIP service, then this interaction could be utilised to gather information as to whether the customer is reliant on their landline.

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<sup>56</sup> Available at: <https://checker.ofcom.org.uk/>.

## Engage in effective communications

- A1.46 We consider that providers should engage in effective communications with all their customers to enable customers:
- a) to understand the risk of the phone not working in a power cut and the eligibility criteria for a solution so that they are able to make an informed choice as to how to proceed; and
  - b) who are not reliant on their landline but want the benefit of the additional protection, to understand the purpose of the solution and request this.

### Enable customers to understand the risk and eligibility criteria

- A1.47 A provider should ensure that its customers (and potential customers) understand the risk of their phone not working in the event of a power cut, and that they understand why they are or are not being offered the solution.
- A1.48 We would expect appropriate checks and balances to be in place so that providers can be satisfied that customers understand this.
- A1.49 Providers will want to consider the ways in which this can be done to reduce the risk that consumers who would benefit from protection are not offered it. For example, providers may consider:
- a) making the eligibility criteria for the solution transparent and readily available to all customers; and
  - b) sharing the outcome reached as to whether the customer is at risk or not, and the reasons for this, with the customer pre-sale, or ask them to confirm they do not need or want the solution when signing a contract.
- A1.50 We would also expect providers to have due regard to Ofcom's guide to publicising services available to disabled people, for example when considering such things as staff training and awareness.<sup>57</sup> Providers should also be mindful that some customers who are at risk may not want to declare this to the provider for a variety of reasons.

### Enable customers to request the solution

- A1.51 Customers who request the solution, and who are at risk due to their reliance on their landline, should be offered the solution free of charge (as set out in Principle 2).
- A1.52 Customers that are not identified as at risk may still request the solution as they want the additional protection this would afford them. We consider it would be appropriate for providers to make the solution available to these customers. Whether to charge for the solution in those circumstances is at the discretion of providers.

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<sup>57</sup> Ofcom, 2016. *A guide to publicising services available to disabled people*.  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0015/81132/guidance.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0015/81132/guidance.pdf).

## **Providers should have a process to ensure that customers who move to a new house or whose circumstances change in some other way are aware of the risk and protection solution available**

- A1.53 After customers have migrated to or taken up a VoIP service, they may become eligible for the solution as, for example, they move to a new house and their indoor mobile coverage changes, or their health changes. We consider therefore that providers should have a process in place to ensure that these customers are aware of the risk and protection solution available to them.
- A1.54 We do not intend to be prescriptive about the process a provider should follow to ensure that its customers are aware of the risk and protection solution, but we would expect providers to:
- a) make customers aware of the risk and protection solution(s) available on an ongoing basis; and
  - b) act appropriately when given information about changes in customers' circumstances.

### **Make customers aware of the risk and protection solution(s) available on an ongoing basis**

- A1.55 We consider that if information is made available to customers about the risk and protection solution available on an ongoing basis, then they are more likely to inform the provider if their circumstances have changed.
- A1.56 There are many ways that providers could make information available to customers and this will likely depend on the way in which they usually communicate with them. For example, providers may want to ensure that information relating to the risk and protection solution:
- is clearly accessible and on appropriate pages on their website;
  - is set out in appropriate correspondence with their customers;
  - is included in scripts/announcements used when customers contact the provider for other related matters.
- A1.57 The above examples are indicative, and providers can take different approaches that have the same effect.

### **Act appropriately when given information about changes in customers' circumstances**

- A1.58 A customer (or someone acting on behalf of a customer) may inform the provider through various channels that their circumstances have changed in some way. Providers should also be alert to any information being provided to them about their customers by, for example, third parties such as charities and local authorities if they have an established relationship or wish to develop one.

- A1.59 For changes in circumstances that may affect whether the customer is reliant on their landline, providers should take appropriate action to ensure that the customer is aware of the risk of the phone not working in a power cut and that there is a protection solution available.
- A1.60 The types of changes in circumstances that providers should be particularly alert to are where they are informed that:
- the customer is moving to a new house; or
  - the customer now requires Priority Fault Repair or any of the other measures set out in General Condition C5.
- A1.61 Providers should have a process in place for recording this information which will ensure that appropriate action is taken to understand whether these customers may now require a protection solution. If the customer is identified as having become reliant on their landline, then they should be offered the appropriate solution.