
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)

Consultation

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About this document

A critically important function of the telephone network is to allow people to contact the emergency services. For this reason, there is a specific regulatory obligation on communications providers (CPs) in General Condition 3 (from October 2018, General Condition A3) to take “all necessary measures” to ensure “uninterrupted access to Emergency Organisations” for their customers.

A traditional landline telephone service uses power provided over the copper line that connects to the telephone exchange. When there is a power cut, it is still possible for people using a corded phone to make emergency calls from their landline. However, for customers using ‘Voice over Internet Protocol’ (VoIP) technology, which allows people to make landline calls over a broadband connection, this facility is not available without additional protection measures being put in place.

Over the next few years, broadband-based calls will become more common. And while most people now use a mobile phone, there are still some that rely on their landline.

This consultation document proposes guidelines on the measures CPs should have in place to ensure that customers making calls over broadband are able to make emergency calls in the event of a power cut at their premises. These guidelines take the form of four proposed ‘principles’ for CPs to follow.

Ofcom would take account of CPs’ regard to these four principles when assessing whether they are meeting their regulatory obligations to take “all necessary measures” to ensure “uninterrupted access to Emergency Organisations”.

The purpose of this consultation is to gather feedback from stakeholders with respect to the proposed principles.

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1. Executive summary

- 1.1 Historically, most landline call services have been delivered to the premises 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. Communications providers (CPs) 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, CPs with substantial PSTN infrastructure have signalled their intention to retire this network in the next few years. This will take a number of years to complete, but companies have started to prepare for the changes.¹
- 1.3 As a result of these developments, consumers can today choose to take up voice over IP (VoIP) call services which use a broadband connection to make calls. Over the next few years, we anticipate that these broadband-based VoIP call services will become more common, and eventually replace traditional landline call services.
- 1.4 The way in which consumers make calls has also changed substantially over the last decade. Most consumers now own a mobile and use this as their main method for making and receiving calls in the home and some consumers now live in homes without a traditional landline. In addition, most homes with a traditional landline use cordless telephones which do not work in a power cut. However, some people still depend on their landline. This includes people who do not have a mobile phone and those without reliable indoor mobile coverage.²
- 1.5 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, including calls to the emergency services on 999 and 112³, will not be possible without additional protection measures being put in place.
- 1.6 This raises the question as to how CPs continue to meet the requirements in General Condition (GC) 3.1(c) (from October 2018, GCA3.2(b)) to "take all necessary measures" to ensure "uninterrupted access to Emergency Organisations as part of any Publicly Available Telephone Services offered" when customers are making calls over broadband.

¹ 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. Openreach is currently consulting its customers on this matter.

² See paragraphs 2.17 to 2.20 below.

³ In the UK, citizens can contact the relevant emergency police, fire, ambulance and coastguard services by using the numbers 999 and 112.

Access to “Emergency Organisations” in this context means access to the emergency services by calling the numbers 999 and 112.⁴

- 1.7 This consultation document proposes guidelines on the measures we consider CPs should have in place to ensure their customers using VoIP technology are protected from this risk. We recognise that most consumers could use their mobile during a power cut, but those who are dependent on their landline, including those without mobile access, will require additional protection.
- 1.8 The guidelines are set out in Section 3 of this document and take the form of four proposed ‘principles’ which, in summary, set out that:
1. CPs 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. CPs 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. CPs 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.
- 1.9 The principles are designed to support CPs in meeting their regulatory obligations in GC3.1(c) (from October 2018, GCA3.2(b)) and reflect the significant changes in landline usage over recent years.⁵ The purpose of these guidelines is to set out proportionate, technologically neutral expectations that meet our principal duties.
- 1.10 It is important to note that the obligations in GC3.1(c)/GCA3.2(b) are extensive, and the principles are not intended to be definitive guidelines on compliance with this condition. Rather, the guidance sets out Ofcom’s expectations in relation to the provision of measures to maintain access to emergency organisations in the event of a single power cut at the customer’s home or premises.
- 1.11 This consultation closes on **5 July 2018**.

⁴ See paragraph 2.12 and 3.16 below.

⁵ See paragraphs 2.17 to 2.19 below.

2. Basis for our proposals

- 2.1 In this section we summarise Ofcom's functions and duties, as well as CPs' regulatory obligations to take measures to ensure uninterrupted access to emergency organisations for their customers. We then set out the purpose and scope of our proposals.

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 guidelines 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 guidelines. The purpose of these guidelines is to set out proportionate, technologically neutral expectations that meet our principal duties.
- 2.6 We wish to make it clear that we may depart from the guidelines in individual cases. They are intended to set out the general approach we would normally expect to take in investigating compliance with GC3.1(c) (from October 2018, GCA3.2(b)) in relation to the specific issues covered by these guidelines, but they will not have binding legal effect and each case will be considered on its own merits. If we decide to depart from them, we will set out our reasons for doing so, and they may be subject to further review and revision from time to time.

The General Conditions of Entitlement

- 2.7 Under the General Authorisation regime, CPs 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 CPs specified in them.
- 2.8 The General Conditions of Entitlement impose specific obligations on CPs 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 the purposes of our proposals can be found in GC3.1(c). General Condition 3.1 sets out that:

“The Communications Provider shall take all necessary measures to maintain, to the greatest extent possible:

(a) the proper and effective functioning of the Public Communications Network provided by it at all times, and

(b) in the event of catastrophic network breakdown or in cases of force majeure the fullest possible availability of the Public Communications Network and Publicly Available Telephone Services provided by it, and

(c) uninterrupted access to Emergency Organisations as part of any Publicly Available Telephone Services offered.”

- 2.10 On 19 September 2017 Ofcom published its document entitled “Review of the General Conditions of Entitlement, Statement and Consultation.”⁶ That document sets out our decision to make changes to the General Conditions of Entitlement and publish a complete set of revised conditions.
- 2.11 In the revised General Conditions of Entitlement, the obligation in GCA3.2(b) places substantially the same requirement to the one currently set out in GC3.1(c) on the same persons. 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.”⁷

- 2.12 ‘Emergency Organisation’ is defined in the revised General Conditions of Entitlement:

⁶ See: https://www.ofcom.org.uk/data/assets/pdf_file/0017/112283/Statement-Review-of-the-General-Conditions-of-Entitlement.pdf

⁷ The revised General Conditions are available at Annex 14 of the 19 September 2017 document entitled “Review of the General Conditions of Entitlement: https://www.ofcom.org.uk/data/assets/pdf_file/0023/106394/Annex-14-Revised-clean-conditions.pdf

“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”⁸

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

- 2.13 The revised General Conditions of Entitlement come into force on 1 October 2018. Given the timing of this consultation and the fact that the wording and scope of the conditions remains substantially unchanged, we refer to GCA3.2 as the relevant General Condition throughout this document. To be clear though, the guidance applies equally to the current and new General Conditions.
- 2.14 GCA3.2 implements the second (underlined) part of Article 23 of the Universal Service Directive⁹ 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.”*
- 2.15 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

- 2.16 In December 2011, in recognition of the fact that fibre optic networks were becoming more widely available, Ofcom published revised guidelines on how CPs providing voice services over Fibre to the Premises (FTTP) networks could meet the requirements of the General Conditions (the 2011 Guidance).¹⁰ The 2011 Guidance consisted of three principles which applied to both new-build and ‘overlay’ FTTP deployments:

⁸ See page 65 of the revised General Conditions of Entitlement available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0023/106394/Annex-14-Revised-clean-conditions.pdf. ‘Emergency Organisation’ is defined in the same way for the purposes of current GC3.1(c).

⁹ Directive 2002/22/EC as amended by Directive 2009/136/EC

¹⁰ See: https://www.ofcom.org.uk/_data/assets/pdf_file/0027/76527/battery_backup_statement.pdf

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. CPs 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.

2.17 Since the 2011 Guidance was published, the market for voice services has seen substantial change. Mobile ownership has increased rapidly, and mobile networks are becoming the platform of choice for voice services for many consumers. We note that:

- in 2017, 94% of adults personally owned/used a mobile phone¹¹ and around 73% of total call volumes in 2016 were made from a mobile.¹²
- even within the home, most consumers now use mobiles as their primary telephony method – Ofcom survey data suggests that 67% of those with a personal mobile and a landline see their mobile as the main method for making and receiving calls in the home.¹³ In addition, 19% of consumers now live in mobile only homes.¹⁴
- around 70% of calls to emergency organisations are now made over mobile networks¹⁵

2.18 Ofcom’s ‘Connected Nations 2017’ estimates that there is now indoor mobile coverage by at least one mobile network operator for 99% of premises in the UK.¹⁶ 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 999/112 will automatically roam onto an available network if there is no coverage from the caller’s own mobile service provider. We note that this estimate is somewhat uncertain given the ongoing expansion and re-arrangement of mobile networks as well as the fact that coverage will be determined by a range of factors unique to individuals and their homes.

2.19 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,¹⁷ 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.¹⁸ Cordless

¹¹ Ofcom’s Communications Market Report 2017, page 6. Available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0017/105074/cm-2017-uk.pdf

¹² 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-update-q4-2017>

¹³ Ofcom Phone use in the home survey November 2017, page 63. See:

https://www.ofcom.org.uk/_data/assets/pdf_file/0016/114217/phone-use-home-survey.pdf

¹⁴ Ofcom Technology Tracker H1 2018, (p. 83). Available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0021/113169/Technology-Tracker-H1-2018-data-tables.pdf

¹⁵ See Ofcom’s ‘Connected Nations 2017’, paragraphs 1.21 and 4.9:

https://www.ofcom.org.uk/_data/assets/pdf_file/0024/108843/summary-report-connected-nations-2017.pdf

¹⁶ See: https://www.ofcom.org.uk/_data/assets/pdf_file/0021/108516/connected-nations-security-resilience-2017.pdf

¹⁷ Ofcom Phone use in the home survey, page 9.

¹⁸ Ibid, page 88.

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.¹⁹

- 2.20 It is clear therefore that the way voice services are used by consumers has changed and is likely to continue to do so as CPs increasingly move away from services that rely on copper wire to broadband technology and given CPs with substantial PSTN infrastructure have indicated their intentions to retire these networks in the next few years.²⁰ 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 approximately 2 million adults live in a home with a landline and no mobile phone.²¹
- 2.21 Ofcom announced the withdrawal of the 2011 Guidance as part of our Strategic Review of Digital Communications.²² 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”.²³
- 2.22 Since then, CPs have sought clarity from Ofcom regarding our expectations in terms of the measures that should be in place to meet the GC requirements and some have provided Ofcom with proposals as to how they intend to meet their obligations.
- 2.23 To ensure that those dependent on their landline are protected, we consider that it is now appropriate to provide guidance to all CPs on this matter.
- 2.24 To help inform these principles, we have discussed them and sought feedback from a range of stakeholders including the Communications Consumer Panel and several CPs.

Scope of the proposed guidelines

- 2.25 The obligations in GCA3.2(b) are broad, and the principles set out in Section 3 are not intended to be definitive guidelines on compliance with this condition. Rather, the guidance specifically sets out Ofcom’s expectations in relation to the provision of

¹⁹ The fact that cordless phones may not work in the event of a power cut when customers are using the PSTN does not form part of this consultation which is considering the measures CPs should have in place to ensure 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.

²⁰ Across the world telecoms companies are transitioning to digital or fibre technology and CPs with substantial PSTN infrastructure have signalled their intentions to retire these networks in the next few years.

²¹ Ofcom Technology Tracker H1 2018, 4% of adults live in fixed only homes. Figure was calculated using the Office for National Statistics (ONS) mid-year population estimates for 2016.

²² 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

²³ 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 localized 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 Pg. 72 https://www.ofcom.org.uk/data/assets/pdf_file/0021/108516/connected-nations-security-resilience-2017.pdf

measures to maintain access to emergency organisations in the event of a single power cut at the customer's home or premise. The guidelines do not cover CPs' obligations in GCA3.2(a).²⁴

- 2.26 CPs 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.²⁵
- 2.27 In 2007 Ofcom published guidelines entitled "Guidelines on the application of PATS obligations to VoIP service providers" (the 2007 Guidelines)²⁶ which provided guidance on how Ofcom would look to investigate potential contraventions of General Condition 3. As there have been significant VoIP market and technical developments since 2007 (and changes to GC3),²⁷ where there is any overlap, this guidance takes precedence.

To whom the principles apply

- 2.28 General Condition A3.2(b) applies to a "Regulated Provider" as defined in GCA3.1(a), namely a person who *"provides a Publicly Available Telephone Service and/or a Public Electronic Communications Network over which a Publicly Available Telephone Service is provided"*.
- 2.29 Publicly Available Telephone Service (PATS) is defined in the revised General Conditions as:
"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".
- 2.30 Public Electronic Communications Network (PECN) is defined in the revised General Conditions as:

²⁴ The obligations in GCA3.2(a) require CPs to take all necessary measures to ensure the fullest possible availability of the PECN and PATS provided by them in the event of catastrophic network breakdown or in cases of force majeure. The measures that CPs need to have in place in relation to this obligation therefore go beyond those they have in place to maintain access to emergency organisations in the event of a power cut at the customer's home or premises. We note that the appropriate level of protection in such circumstances is part of a broader discussion on civil contingencies which is being led by the Government. See Ofcom's Connected Nations 2016, paragraph 7.53:
https://www.ofcom.org.uk/data/assets/pdf_file/0035/95876/CN-Report-2016.pdf

²⁵ CPs 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.

²⁶ Annex 5 to the 2007 statement entitled "Regulation of VoIP services":

https://www.ofcom.org.uk/data/assets/pdf_file/0023/55571/voipstatement.pdf

²⁷ For example, Article 23 of the Universal Service Directive and GC3 are no longer restricted to provision of publicly available telephone services at fixed locations.

*“an Electronic Communications Network provided wholly or mainly for the purpose of making Electronic Communications Services available to members of the public”.*²⁸

- 2.31 The obligations in GCA3.2(b) apply to all providers of a PATS service and all providers of a PECN over which a PATS is provided. Therefore, these providers should take *“all necessary measures to ensure uninterrupted access to emergency organisations”* as set out in GCA3.2(b). This would include any “reseller” of a PATS service, as well as any provider of an over the top (OTT) service that meets the PATS definition.²⁹
- 2.32 All CPs meeting these definitions should therefore be taking account of the guidance set out in this document as it sets out the measures that we consider are necessary to ensure uninterrupted access to emergency organisations in the event of a power cut at the customer’s home or premises.³⁰
- 2.33 We do note however that the principles have been developed with those providers in mind who will be offering both the underlying network and the VoIP service to the customer. For those CPs 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 to meet their obligations in GCA3.2(b).
- 2.34 We do not seek to list all the situations where it may or may not be possible and/or proportionate for those providers offering only the network element or only the VoIP service to take these measures – it is for CPs to consider how they meet their obligations, whilst taking account of the principles.
- 2.35 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 CP’s reasonable control to take the measures set out in the principles. This would be the same if the CP was offering only the network element or only the VoIP service to the customer.
- 2.36 The assessment of what is technically feasible would include an element of proportionality, however this will always need to be considered against the objective of GCA3.2(b) – to provide uninterrupted telephone access to emergency organisations – and the vital public interest that it serves. What is under a CP’s reasonable control is also likely to vary depending on the type of relationship they have with the customer and/or any other regulated provider.
- 2.37 For example, if a network provider does not offer voice services itself but is introducing the consumer to a VoIP provider, or is marketing its services to residential customers who

²⁸ Electronic Communications Network and Electronic Communications Service are also defined in the General Conditions. See page 66: https://www.ofcom.org.uk/_data/assets/pdf_file/0023/106394/Annex-14-Revised-clean-conditions.pdf

²⁹ Some OTT services will not meet the PATS definition, for example they may be VoIP Outbound Call Services in which case the obligations in GCA3.3, GCA3.4, GCA3.5 and GCA3.6(c) would apply.

³⁰ We note that GCA3.2(b) applies in relation to any PATS services offered and therefore CPs should take account of this guidance when considering domestic and business customers.

will likely require VoIP services, then this may affect our assessment of whether it would be proportionate to take some or all the measures set out in the principles.

- 2.38 We note that if a customer is taking the network element and VoIP service from separate CPs, then there may be an opportunity for CPs to work together to ensure that their customer is protected as necessary, and they are both meeting their obligations in GCA3.2(b). This may include sharing responsibilities for assessing which customers are reliant on their landline, as well as sharing information or technology as appropriate.

3. Proposed principles for consultation

- 3.1 This section sets out proposed guidelines on the measures CPs 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. These guidelines take the form of four proposed ‘principles’ for CPs to follow.
- 3.2 We consider that the principles represent appropriate and proportionate measures that CPs should take in meeting GCA3.2(b). We have borne in mind:
- a) the significant developments in the voice market, including the fact that most consumers now own and regularly 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.
- 3.3 Where appropriate, we reference the evidence we have relied on.
- 3.4 We would encourage CPs to keep records of the process that they undertake in deciding the measures to put in place to meet their obligations in 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.

CPs 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

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

At least one solution

- 3.6 The obligations in GCA3 are technology neutral and therefore we do not intend to prescribe what type of solution CPs should employ for the purposes of providing access to emergency organisations in the event of a power cut at the customer’s premises.
- 3.7 We understand that CPs are developing or implementing a range of options for the type of solution including, but not limited to, the use of a battery back-up installed in the customer’s premises. We note there are also solutions available to all CPs such as an Uninterruptable Power Supply (UPS) device that provides emergency power to connected devices when the mains power fails.

For a minimum of one hour

- 3.8 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.
- 3.9 We consider that one hour's protection represents an appropriate minimum level of protection in most cases given that the average length of a power cut is less than one hour. In addition, we note that there is likely to be a correlation between power outages and emergency calls, which could lead to more calls being made during power cuts, many likely being made fairly soon after the outage; one hour should provide enough time to call for help.³¹
- 3.10 However, some individual consumers 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 CPs should take appropriate steps to identify and address the needs of customers who would benefit from additional protection.
- 3.11 In all cases, the duration of the protection being offered by the solution should be made clear to the customer. For the purposes of an investigation, we would consider approaches adopted by CPs on a case by case basis to determine whether they address the needs of their customers.

Enables access

- 3.12 For the solution to enable access to emergency organisations on an ongoing basis, it will need to be properly maintained.
- 3.13 We do not intend to provide detailed guidance on how CPs should manage the provision and maintenance of their solutions. We would expect CPs to have procedures and practices in place appropriate to the solution adopted that will ensure that the solution continues to work on an ongoing basis.
- 3.14 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 CP takes full responsibility for maintenance, the customer may have to allow the CP access to the property, to replace or service the equipment. In this respect, we would expect CPs to do everything within their reasonable control to ensure that the solution is properly maintained.

³¹ We refer to the evidence and reasoning set out in the 2011 Guidance and in Section 5 of the consultation document issued prior to the 2011 Guidance entitled "Battery back-up for superfast broadband services which use fibre optic technology". See: https://www.ofcom.org.uk/_data/assets/pdf_file/0032/63788/battery_condoc.pdf. We also requested updated figures from Ofgem in respect of the UK domestic power outage duration percentages since 2010 and note that the percentage of power cuts restored in less than an hour has increased from 60% in 2010/11 to 67% in 2016/17 and power cuts lasting over 12 hours is now less than 1%. Overall the average length of power cuts in Great Britain is in decline. See Annex 1.

Access to emergency organisations

- 3.15 The solution should allow the customer to contact emergency organisations using the emergency call numbers 999 and 112.
- 3.16 We understand that consumers may want to use their phone to call other numbers – for example a friend or relative – in the event of a power cut in their home. However, as set out in Section 2, this guidance relates to the obligation in GCA3.2(b) to ensure uninterrupted access to emergency organisations. In the UK, citizens can contact the relevant police, fire, ambulance and coastguard services by using the numbers 999 and 112. The guidance therefore focuses on access to the emergency call numbers 999 and 112.
- 3.17 We note however that some of the solutions being developed and implemented by CPs will in practice allow customers to make calls to any number. In all cases, the consumer 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

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

Suitable for customers’ needs

- 3.19 When considering whether the solution is suitable for the needs of the customer, we would expect CPs to be giving due consideration to the customer’s situation. For example, if the CP is providing a solution which relies on mobile signal to work, then they should ensure that the customer lives in premises that have mobile coverage.
- 3.20 Relevant considerations will depend on the type of solution that the CP 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 CP to demonstrate that due consideration had been given to the appropriateness of any solution offered given the needs and circumstances of the customer.
- 3.21 We would expect CPs 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 CP should satisfy itself that the customer understands any responsibilities and is able to fulfil them without undue difficulty.
- 3.22 For example, if the CP’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.³² We do not consider that it would be proportionate to expect CPs 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 CP to satisfy themselves that the customer can access one.³³

Offered free of charge

- 3.23 CPs should, as a minimum, offer the solution free of charge to those customers who are at risk as they are dependent on their landline.
- 3.24 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, the CP 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.
- 3.25 It should be noted that offering the solution free of charge to those dependent on their landline is a minimum, and CPs may choose to provide the solution free of charge to more/all of their customers if they consider that appropriate.

Consumers dependent on their landline

- 3.26 As set out in Section 2, our research indicates that mobile networks are fast becoming the platform of choice for voice services with most adults personally using a mobile phone.³⁴
- 3.27 We therefore consider that, for many consumers, not being able to contact emergency organisations via a landline in the event of a power cut is very unlikely to affect them or to cause a safety of life concern; they would be able to use their mobile to make this call.
- 3.28 However, some consumers 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.
- 3.29 These consumers 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.

³² This is the same as is currently the case where the customer uses voice services over the PSTN but has a cordless phone. See Paragraph 2.19 above.

³³ CPs 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’s phone use in the home survey, response to question 8.

³⁴ See paragraph 2.17 above.

- 3.30 We do not intend to provide a prescriptive list of the consumers who would be more at risk. However, we provide some further detail and non-exhaustive examples below.

Consumers whose disability and/or accessibility requirements mean they are reliant on their landline.

- 3.31 Although not all consumers 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.

- 3.32 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 C5³⁵ 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.

- 3.33 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);
- they use a textphone on a fixed line;³⁶
- they are signed up to network controlled calling and/or 123 or 118 barring (or similar);³⁷
- 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.

Consumers who do not have an alternative method of calling emergency organisations

- 3.34 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).

³⁵ See page 42-45: https://www.ofcom.org.uk/data/assets/pdf_file/0023/106394/Annex-14-Revised-clean-conditions.pdf

³⁶ Although the relay service is now available via the NGT app for smartphone, some text relay minutes are still over fixed lines.

³⁷ These services support customers who may have short-term memory loss, learning difficulties, dementia or an Obsessive Compulsive Disorder.

- 3.35 Our research suggests that approximately 2 million adults live in a home with a landline and no mobile phone.³⁸ 57% of these individuals are aged 75 or over, around 44% live alone and 21% have a disability.³⁹
- 3.36 These customers would be particularly at risk if their landline did not work in the event of a power outage as they do not have access to an alternative way of contacting emergency organisations in their home.

CPs 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

- 3.37 We consider that CPs should take steps to identify their customers who may be reliant on their landline. In addition, CPs 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

- 3.38 We would expect CPs 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.

Information available

- 3.39 A CP 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 CPs should use this information to identify at risk customers.⁴⁰
- 3.40 In relation to mobile signal, CPs can utilise information available on Ofcom's mobile checker⁴¹ to support their assessment of whether the customer is likely to be at risk owing to poor mobile signal. CPs are likely also to hold or have access to other relevant

³⁸ Ofcom Technology Tracker H1 2018, 4% of adults live in fixed only homes. Figure was calculated using ONS mid-year population estimates for 2016.

³⁹ Ofcom Phone use in the home survey November 2017, pages 83, 84 and 89 respectively.

⁴⁰ For example, CPs may hold information about which of its customers have previously indicated that they have certain accessibility or disability requirements which may indicate a reliance on their landline (see paragraphs 3.32 and 3.33 above) and/or which of its customers live in landline only homes or are over 75 (see paragraph 3.35 above).

⁴¹ Ofcom's mobile checker is available at: <https://checker.ofcom.org.uk/>

information in relation to mobile coverage for their customers in distinct locations e.g. not spots or rural areas.

- 3.41 We appreciate that some CPs will hold more information than others, for example depending on how long they have been operating and whether they also have a mobile offering.
- 3.42 CPs 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

- 3.43 We think that CPs 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.
- 3.44 We do not intend to provide detailed guidance as to the questions that CPs 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 CP already holds about the customer, the type of customer base (e.g. domestic or business customers) and the type of interaction the CP has with the customer (e.g. phone or internet sale, and whether a home visit is required).
- 3.45 We consider for example that, where a CP is engaged in 1-2-1 communication with the customer as part of a sales process, the CP could ask the consumer 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, then this interaction could be utilised to gather information as to whether the customer is reliant on their landline.

Engage in effective communications

- 3.46 We consider that CPs 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

- 3.47 A CP 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.

- 3.48 We would expect appropriate checks and balances to be in place so that CPs can be satisfied that customers understand this.
- 3.49 CPs 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, CPs may want, as a minimum, to:
- a) make the eligibility criteria for the solution transparent and readily available to all customers; and
 - b) share 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.
- 3.50 We would also expect CPs 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.⁴² CPs should also be mindful that some customers who are at risk may not want to declare this to the CP for a variety of reasons.

Enable customers to request the solution

- 3.51 Customers who request the solution, and who are identified as being at risk as they are reliant on their landline, should be offered the solution free of charge (as set out in Principle 2).
- 3.52 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 CPs to make the solution available to these customers. Whether to charge for the solution in those circumstances is at the discretion of CPs.

CPs 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.

- 3.53 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 CPs should have a process in place to ensure that these customers are aware of the risk and protection solution available to them.
- 3.54 We do not intend to be prescriptive about the process a CP should follow to ensure that its customers are aware of the risk and protection solution, but we would expect CPs to:
- a) make customers aware of the risk and protection solution(s) available on an ongoing basis; and

⁴² See: https://www.ofcom.org.uk/_data/assets/pdf_file/0015/81132/guidance.pdf

- b) act appropriately when given information about changes in consumers' circumstances.

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

- 3.55 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 CP if their circumstances have changed.
- 3.56 There are many ways that CPs could make information available to customers and this will likely depend on the way in which they usually communicate with them. For example, CPs 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 CP for other matters.
- 3.57 The above examples are indicative, and CPs can take different approaches that have the same effect.

Act appropriately when given information about changes in consumers' circumstances

- 3.58 A customer (or someone acting on behalf of a customer) may inform the CP through various channels that their circumstances have changed in some way. CPs should also be alert to any information being provided to them about their customers by third parties such as charities and local authorities.
- 3.59 For changes in circumstances that may affect whether the customer is reliant on their landline, CPs 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.
- 3.60 The types of changes in circumstances that CPs 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.
- 3.61 CPs 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.

Consultation Question

Do you agree with the four proposed principles? If not, please give reasons. Please set out your comments on each of the principles separately.

A1. Domestic power outage duration percentages

A1.1 Table 1 (provided by Ofgem) lists the percentage of domestic power outages (longer than 3 minutes) in Great Britain (GB) that were restored within the timescales indicated. It should be noted that performance variations will arise for different geographical locations across the UK.

Table 1: GB Domestic power outage duration percentages

| Year | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 |
|---------------------------------------|---------|---------|---------|---------|---------|---------|---------|
| 3 minutes up to but excluding 1 hour | 60% | 63% | 64% | 63% | 68% | 67% | 67% |
| 1 hour up to but excluding 2 hours | 23% | 20% | 19% | 17% | 18% | 18% | 18% |
| 2 hours up to but excluding 3 hours | 7% | 6% | 6% | 6% | 6% | 6% | 6% |
| 3 hours up to but excluding 6 hours | 6% | 6% | 6% | 7% | 6% | 6% | 6% |
| 6 hours up to but excluding 12 hours | 3% | 3% | 3% | 4% | 2% | 3% | 3% |
| 12 hours up to but excluding 18 hours | 1% | 1% | 1% | 1% | 0% | 1% | 0% |

Source: Ofgem

A2. Responding to this consultation

How to respond

- A2.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 5 July.
- A2.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/access-emergency-organisations-power-cut>. You can return this by email or post to the address provided in the response form.
- A2.3 If your response is a large file, or has supporting charts, tables or other data, please email it to ipmigration@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 5 July 2018.
- A2.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- IP Migration Team
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A2.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A2.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A2.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A2.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A2.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 5. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

A2.10 If you want to discuss the issues and questions raised in this consultation, please contact Liz Roberts on 0207 981 3060, or by email to ipmigration@ofcom.org.uk.

Confidentiality

- A2.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A2.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A2.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A2.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A2.15 Following this consultation period, Ofcom plans to publish a statement in September 2018.
- A2.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A2.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 3.
- A2.18 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A2.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Proposed guidance on General Condition A3.2(b)

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A3. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A3.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A3.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A3.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A3.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A3.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A3.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A3.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A4. Consultation coversheet

BASIC DETAILS

Consultation title: organisation realise

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A5. Consultation question

Do you agree with the four proposed principles? If not, please give reasons. Please set out your comments on each of the principles separately.