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# Review of the telephony universal service obligation

## Updating the rules on public call boxes

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[Review of the telephony universal service obligation](#) – Welsh overview

**STATEMENT:**

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# 1. Overview

Under the telephony universal service obligation (USO), BT and KCOM are required to provide telephony services throughout the UK, including public call boxes. Use of public call boxes has declined substantially, mainly as a result of the increased use of mobile phones. But for those without access to a landline or working mobile, or in areas with poor mobile coverage, a public call box can be the only option for making calls to friends and family, helplines and, crucially, emergency services. So we want to protect the boxes that are most needed from removal.

The migration of the UK's telephone network to Internet Protocol (IP) technology will have a significant effect on the future provision of public call boxes. The old telephone network will be retired by December 2025, so public call boxes will need to be upgraded with new equipment to ensure they still work. In light of these developments we are updating our rules to allow BT and KCOM to remove public call boxes that are no longer needed whilst at the same time protecting those boxes on which people still rely. We have also made other changes to streamline the telephony USO rules.

## What we have decided – in brief

**Strengthened rules to ensure that public call boxes that are still needed are protected from removal.** Previously, local authorities were able to veto the removal of the last public call box in an area, but we are concerned that this veto was applied inconsistently across the UK. We have replaced the veto with a clear, consistent set of criteria which should protect those boxes that are most needed from removal (such as those in areas without full mobile coverage), while also allowing the removal of boxes that are no longer needed. BT and KCOM must still consult with local authorities on the removal of boxes that are the last in an area.

**Providing more flexibility on the services provided by public call boxes.** BT offers a range of other on-street devices that provide services such as free calls, phone charging and free Wi-Fi – but these devices do not currently count as public call boxes. To better reflect users' ongoing needs, and support BT and KCOM in offering improved services to users, we have amended our rules to allow greater flexibility in the services offered from public call boxes. This includes allowing all calls to be free and removing the requirement to offer incoming calls (where all outgoing calls are free).

**Ensuring that public call boxes continue to work in the event of a power cut.** Currently, public call boxes can still be used to make calls when there is a power cut in the area. To ensure this continues after networks are migrated to IP, public call boxes will need new battery equipment installed. We have made changes to require BT and KCOM to make sure public call boxes that are likely to be needed in the event of a power cut have batteries installed so they can still be used to make emergency calls for at least three hours.

## Background

- 1.1 The current telephony USO was established in legislation in 2003 and requires the provision of telephony services throughout the UK, including public call boxes (PCBs). It is aimed at ensuring that telephony services are provided to those in remote and rural areas or to vulnerable customers, whom the market might not otherwise choose to serve.
- 1.2 BT and KCOM are designated as the telephony universal service providers, and as part of their USO obligations they currently provide nearly 20,000 PCBs across the UK.
- 1.3 In recent years, the evolution of technology, market developments and changing consumer needs have led to significant changes in the use of PCBs. In particular, the increased availability and uptake of mobile services has caused a steep decline in PCB usage, with call volumes having decreased from around 800m minutes in 2002 to 4m in 2021/22.
- 1.4 At the same time, we know that some PCBs continue to deliver an important service, particularly to those who do not have access to a working mobile phone or who are in areas where mobile coverage cannot be relied upon. We therefore want to ensure that those PCBs that are still needed are protected from removal.

## Our previous proposals

- 1.5 In November we highlighted concerns that the process to remove PCBs was not working as effectively as it could. We proposed to remove the local veto process and replace it with a set of strengthened criteria in our rules which would ensure PCBs that are still needed are protected from removal. We also consulted on a number of other proposals to update and modernise the telephony universal service obligations on BT and KCOM.
- 1.6 We received a range of responses to our consultation from communication providers, local authorities, MPs, consumer groups, charities, industry groups and individuals.<sup>1</sup> Some respondents were supportive of our proposals, while others raised some concerns, including on the removal of the local veto and the number of PCBs that might be removed.

## Our decision

- 1.7 Having carefully considered all the comments we received, we have decided to proceed with our proposals. We have made some clarifications to our approach and amended the guidance in some areas to take account of comments we received.
- 1.8 We have decided to put in place strengthened criteria to protect PCBs from removal where they are still needed. The criteria would protect last at a site<sup>2</sup> PCBs where:
  - they do not have coverage from all four mobile network providers; or
  - they are located in an area with a high frequency of accidents or suicides; or

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<sup>1</sup> All non-confidential responses are available on our [website](#).

<sup>2</sup> A site is defined as 400 metre walking distance from the next nearest PCB.

- they have made 52 or more calls over the past 12 months (i.e. the equivalent of one call per week); or
  - there is other evidence of a reasonable need for the PCB.
- 1.9 BT and KCOM will be required to consult with relevant local bodies about any proposed last at a site PCB removal that it considers does not meet the above criteria, and they must take account of any submissions from those bodies. This revised process will allow BT and KCOM to remove PCBs that are no longer needed, according to the new criteria, whilst at the same time protecting the remaining important PCBs (including the 1,400 PCBs<sup>3</sup> that are in areas with poor mobile coverage).
- 1.10 This will mean that some traditional red kiosks will no longer be kept for making calls. Local authorities who want to retain a red kiosk will continue to have the option to use BT's 'Adopt a Kiosk' scheme.<sup>4</sup> Under the scheme, local authorities (and parish councils or local charities) can purchase local red kiosks for a £1 fee. Since BT launched the scheme, over 6,000 kiosks have been adopted and have been converted to a range of different uses, such as a library or installing a defibrillator.
- 1.11 Alongside these changes to the process for removing PCBs, we are also making changes to the requirements for PCB services and pricing, including:
- amending the requirement for PCBs to have uniform national pricing to allow BT and KCOM flexibility to offer free calls from their PCBs (e.g. BT's 'Street Hub'<sup>5</sup> devices already offer free calls to all UK landline and mobile numbers);
  - removing the requirement for PCBs to provide incoming calls where all outgoing calls are free;<sup>6</sup>
  - no longer requiring PCBs to offer calls to premium rate and international numbers; and
  - removing the requirement for 70% of PCBs to take cash, and instead requiring BT and KCOM to reasonably assess whether there is a continuing need for using cash in PCBs before they remove any cash payment facilities.
- 1.12 Currently PCBs can still be used to make calls when there is a power cut because the lines are powered from the local telephone exchange. This will no longer be the case once PCBs are migrated to function over IP networks. We recognise, however, that people that use PCBs may become more reliant on them in the event of a power cut, given the increased likelihood of needing to make emergency calls in such circumstances.
- 1.13 We are therefore putting in place a requirement for BT and KCOM to ensure that any PCBs that are likely to be relied upon in the event of a power cut, such as those in areas with no mobile coverage or frequent long-duration power outages, have a solution in place (e.g. a battery back-up unit). This solution must enable emergency calls to be made for at least three hours, although we also expect BT and KCOM to take additional measures to ensure

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<sup>3</sup> Based on Ofcom's analysis of mobile coverage at BT's last at site PCBs, using data from our 2022 Connected Nations.

<sup>4</sup> [The Adopt a Kiosk scheme | BT Business](#)

<sup>5</sup> [Street Hubs | Interactive Digital Kiosks | BT Business](#)

<sup>6</sup> Where incoming calls are removed, we have also required that PCBs must have a mechanism to ensure emergency calls can not be disconnected by the caller.

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PCB resilience where there are longer duration power outages as demonstrated in the recent storms.<sup>7</sup>

- 1.14 We have also set out our view that it would be appropriate to remove the requirement to provide fax services from the USO, which will require an amendment to the legislation by Government. The Government is now considering whether to make this change.
- 1.15 The changes we are making to the rules on BT and KCOM will take effect from today – the rules are set out in Annex 1 of this statement. We have also published guidance on how we expect BT and KCOM to comply with the new rules in Annex 2.

This overview is a simplified high-level summary only. The decisions we have taken and our reasoning are set out in the full document.

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<sup>7</sup> For example, such measures might include arranging for additional batteries to be sent out to a PCB or enabling mobile generator power back-up.

## 2. Introduction & background

- 2.1 The telephony USO provides a safety net to ensure that a minimum set of telephony services are available at an affordable price to people across the UK. BT and KCOM are designated as the universal service providers, and we have imposed conditions on them which require that (amongst other things) they must provide PCBs.
- 2.2 In November 2021<sup>8</sup> we consulted on proposals to modernise and streamline the public call box conditions applicable to BT and KCOM in light of advances in technology and changes in user demand, as well as the upcoming migration of the UK's telephony networks to IP. At the same time, we also proposed changes to update some of the other telephony universal service conditions applicable to BT and KCOM. This document sets out our decision on changes to the conditions, following consideration of the consultation responses we received.
- 2.3 In this section we outline the background and context to the telephony USO, the policy objectives and scope of this review, our November consultation, as well as the relevant legal framework under which we are making the decisions set out in this statement.

### The telephony USO and its purpose

- 2.4 The current telephony USO was established via legislation in 2003<sup>9</sup> and requires certain services to be provided throughout the UK, in particular: publicly available telephone services on reasonable request, PCBs,<sup>10</sup> directories and directory enquiry facilities; and certain billing, payment and tariff options (including social tariffs). In relation to PCBs, the legislation specifies in particular that they shall be provided to meet the reasonable needs of end-users in terms of geographical coverage, the number of telephones and service quality.<sup>11</sup>
- 2.5 The USO therefore ensures that affordable telephony services are provided to help those in remote and rural areas or vulnerable customers, whom the market might not otherwise choose to serve. Without it there would be a risk of social exclusion arising from a lack of access to these services, preventing citizens from full economic and social participation in society.
- 2.6 Ofcom implemented the telephony USO in 2003 through a combination of universal service conditions on BT and KCOM (who we designated as universal service providers)<sup>12</sup> and

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<sup>8</sup> Ofcom, [Review of the telephony universal service obligation: proposals on public call boxes and other changes](#), 9 November 2021 ('the November consultation').

<sup>9</sup> [The Electronic Communications \(Universal Service\) Order 2003](#).

<sup>10</sup> A PCB is defined in the Universal Service Order as a 'Public Pay Telephone', which is a telephone available to the general public. The universal service conditions provide that such telephones are those which are permanently installed on public land and to which the public has access at all times. This definition therefore excludes public pay telephones in locations such as stations and airports.

<sup>11</sup> See paragraph Four of the Schedule to the Order.

<sup>12</sup> Ofcom, [Statement on the designation of BT and Kingston as universal service providers and the specific universal service conditions](#), July 2003.

general conditions on all providers. We previously reviewed some of the telephony universal service conditions on BT and KCOM in 2006.<sup>13</sup>

## Policy objectives and scope of our review

2.7 Our primary objectives in this review of the telephony universal service requirements on BT and KCOM are to ensure that:

- PCBs continue to be provided to meet the reasonable needs of end-users, in particular acting as a safety net for those in remote or rural areas or vulnerable customers who might otherwise be at risk of social and/or economic exclusion;
- the PCB conditions are updated to reflect existing and upcoming market developments, advances in technology and changes in user demand, in particular to modernise the rules in light of those developments and ensure they reflect the least intrusive means of achieving our objectives;
- the requirements are sufficiently flexible to allow innovation in the provision of PCBs – ensuring they do not act as a barrier to the delivery of additional, valued services to end-users; and
- the conditions are simplified to make them clearer and more transparent.

2.8 We have taken account of these objectives throughout our decisions set out in this document.

2.9 This review has not included consideration of the universal service condition relating to schemes for consumers with special social needs (which could include social tariffs). Ensuring that people can access affordable communication services is a priority for us, and our latest report sets out our plans in this area.<sup>14</sup> Any consideration of further measures in relation to affordability will therefore form part of that ongoing work.

2.10 In addition, this review has not included consideration of any changes to requirements from the Order that have been implemented through the general conditions. We undertook a comprehensive review of the general conditions in 2017 to ensure that they continue to provide adequate protections for customers.<sup>15</sup>

## November consultation

2.11 Our November consultation detailed our proposals for changing the current telephony universal service obligations on BT and KCOM.<sup>16</sup> We outlined how, since our previous review in 2006, the evolution of technology, market developments and changing consumer needs had led to significant changes in the use of PCBs. In particular we pointed to the increased use of mobile services, improved mobile coverage and access to emergency

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<sup>13</sup> Ofcom, [Review of the universal service obligation](#), March 2006.

<sup>14</sup> Ofcom, [Affordability of communications services: Summary of findings and update on availability and take-up of broadband social tariffs](#), February 2022.

<sup>15</sup> Ofcom, [Review of the General Conditions of Entitlement](#), November 2017.

<sup>16</sup> [November consultation](#)



services<sup>17</sup> and highlighted the resulting steep decline in PCB usage, with call minutes having decreased from around 800m in 2002 to 7m in 2020.<sup>18</sup> Since our consultation, call minutes from PCBs have further declined and were down to 4m in 2021/22.<sup>19</sup>

2.12 We also noted how the upcoming migration of the UK's telephone networks to IP will have a significant impact on the provision of PCBs. This migration is taking place over the next few years as the traditional Public Switched Telephone Network ('PSTN'), which PCBs currently use, is being switched off. This change will offer potential benefits to customers, such as clearer phone calls, and it will help to ensure the UK's fixed telephony services are fit for the future.<sup>20</sup> BT has taken the decision to retire the PSTN by December 2025 and other providers plan to follow a broadly similar timescale. For PCBs to continue to function after 2025 on IP networks, they will need to be upgraded and new equipment installed.

2.13 Whilst we recognised that the reasonable needs of PCB users have changed, with PCBs no longer being used by most people,<sup>21</sup> we also highlighted how they still offer a vital service for some users. In particular we noted that for people without access to a landline or working mobile or in areas with poor mobile coverage, a PCB can be the only option for making calls to friends and family, helplines and the emergency services. We therefore said we wanted to ensure that those PCBs that were still needed were protected from removal.

2.14 We proposed a number of changes to the obligations on BT and KCOM with respect to the provision of PCBs, including:

- revising the process by which the last PCB within a defined area can be removed – we proposed to replace local authorities' ability to veto the removal of PCBs with a requirement on BT and KCOM to apply a clear set of criteria which will protect from removal those PCBs that are most needed (e.g. in locations without mobile coverage from all of the UK's national Mobile Network Operators (MNOs));
- amending the definition of PCBs to focus on those services most needed by end-users, and to give BT and KCOM greater flexibility to offer free calls and additional services; and
- introducing a new requirement for some PCBs to be resilient in the event of a power cut.

2.15 In order to implement these changes, we proposed a number of amendments to the existing universal service conditions relating to PCBs. We also proposed to revoke the current PCB Direction and Guidance<sup>22</sup> and to introduce new guidance.<sup>23</sup>

2.16 We also proposed a number of changes to streamline and update some of the other telephony universal service conditions on BT and KCOM. These changes included updating

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<sup>17</sup> November consultation, paragraphs 2.10-2.12.

<sup>18</sup> November consultation, paragraph 2.13.

<sup>19</sup> BT response to our formal information request dated 25 May 2022.

<sup>20</sup> See: Ofcom, [The future of fixed telephone services](#), February 2019.

<sup>21</sup> Populus, June 2020. [A review of the UK public's perceptions and use of payphones](#), Q25. BT's consumer survey found that only 8% of people surveyed said they had used a PCB in the past year.

<sup>22</sup> [The Public Call Box Direction 2006](#) and [Public Call Box guidance 2006](#).

<sup>23</sup> See Annex 6 of the November consultation.

how they report on their performance in delivering the USO and have also sought views on whether to remove the requirement to provide fax services under the USO.

- 2.17 Our consultation closed on 11 January 2022. We received 25 responses, from a range of stakeholders including communications providers, local councils, MPs, consumer groups, charities, trade bodies, business partnerships and members of the public. All non-confidential responses are available on our website.<sup>24</sup>

## Legal framework and Ofcom's role

### Statutory scheme and Ofcom's role

- 2.18 The requirement to secure universal service in the UK derives from the European Electronic Communications Code (EECC).<sup>25</sup> The EECC has been implemented into UK law through the Communications Act 2003 (the 'Act') and secondary legislation.<sup>26</sup> The Act sets out obligations to be secured by universal service obligations.
- 2.19 Under the legislation, universal service means the provision of at least a minimum set of services to everyone on request and at an affordable price.<sup>27</sup> Section 65 of the Act establishes that the Secretary of State must, by order, set out the extent to which electronic communications networks must be made available or supplied throughout the UK.<sup>28</sup>
- 2.20 The Electronic Communications (Universal Service) Order 2003 (the 'Order') sets out that the following services must be provided, made available or supplied throughout the UK:
- a) **publicly available telephone services** which are capable of allowing end-users to make and receive local, national and international telephone calls and fax;<sup>29</sup>
  - b) **directories and directory enquiry facilities.** Specifically, at least one directory and one directory enquiry facility must be made available to end-users and must comprise, subject to the provisions of the Privacy and Electronic Communications (EC Directive) Regulations 2003, the details of all subscribers of publicly available telephone services and their telephone numbers, including fixed and mobile telephone numbers;<sup>30</sup>
  - c) **public pay telephones** or other public voice telephony access points. Specifically, these must be provided to meet the reasonable needs of end-users in terms of geographical coverage, the number of telephones or other access points and the quality of public electronic communication services. It must also be possible to make emergency calls

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<sup>24</sup> The non-confidential responses are published on our website [here](#).

<sup>25</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

<sup>26</sup> Prior to the EECC coming into force, the Act implemented the provisions of the Universal Service Directive: Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services as amended by Directive 2009/136/EC.

<sup>27</sup> Recital 212 of the EECC.

<sup>28</sup> Sections 65(1) and 65(2)(a) of the Act.

<sup>29</sup> Paragraph 1 of the Schedule to the Order.

<sup>30</sup> Paragraphs 2 and 3 of the Schedule to the Order.

from public pay telephones using the single European emergency call number “112” and the UK emergency call number “999”, free of charge and without the use of coins or cards;<sup>31</sup>

- d) **billing, payment and tariff options** including appropriate tariff options and packages which depart from those provided under normal commercial conditions and which must be made available by designated providers to consumers on low incomes or with special social needs;<sup>32</sup> and
- e) **special measures for end-users with a disability**, which must include (amongst other things): accessibility and functionality of the public pay telephones for use by end-users with a disability.<sup>33</sup>

2.21 The Secretary of State also set out guidance on pricing in the Order which provides that the access to the services set out in the Order (including PCBs) must be affordable for all end-users and set at uniform prices throughout the UK, unless Ofcom has determined that there is clear justification for not doing so.<sup>34</sup>

2.22 The Order does not specify in any detail how and by whom these services should be provided to eligible consumers. It is therefore for Ofcom to decide how to implement the Order in the most appropriate way.

2.23 Ofcom is empowered through the Act to designate the provider(s) of these universal services.<sup>35</sup> Oftel (Ofcom’s predecessor) designated BT and KCOM as the telephony universal service providers.<sup>36</sup> We recently also designated BT and KCOM as the universal service providers for broadband.<sup>37</sup> We have not revisited the designation of BT and KCOM as universal service providers in the UK as part of this review.<sup>38</sup>

## Ofcom’s power to set conditions

2.24 Ofcom is also empowered to set conditions:

- a) we have discretion to set universal service conditions to apply to designated providers. Such conditions must be set as we consider appropriate to ensure that the Order is implemented properly and effectively, but in doing so we must have regard to any guidance set out in the Order made by the Secretary of State. We must also ensure that universal service conditions include an obligation on designated providers requiring them to publish information about their performance in complying with those conditions and a requirement securing that the terms on which a person is

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<sup>31</sup> Paragraph 4 of the Schedule to the Order.

<sup>32</sup> Paragraph 5 of the Schedule to the Order.

<sup>33</sup> Paragraph 6 of the Schedule to the Order.

<sup>34</sup> Article 4 of the Order.

<sup>35</sup> Section 66(1) of the Act.

<sup>36</sup> Designation of BT and Kingston as universal service providers, and the specific universal service conditions, 22 July 2003.

<sup>37</sup> Ofcom, [Delivering the Broadband Universal Service](#), June 2019.

<sup>38</sup> We consider that maintaining BT & KCOM’s designation as telephony universal service providers is consistent with our recent decision to designate them as the universal service providers for broadband.

provided with a universal service do not require them to pay any amount relating to an unnecessary additional service.

- b) we also have powers to set general conditions of entitlement ('general conditions') to apply to all providers of electronic communications networks and/or electronic communications services or to providers of a particular description specified in the condition which supply such networks and/or services.<sup>39</sup>

2.25 Oftel (Ofcom's predecessor) exercised its powers under sections 45 and 67 of the Act<sup>40</sup> to set the universal service conditions<sup>41</sup> and its powers under section 49 to give a direction in relation to public pay telephones affecting the operation of those conditions (the 'PCB Direction').<sup>42</sup>

2.26 In addition, Ofcom has imposed a number of general conditions to secure the implementation of the telephony universal service obligations. These include general conditions relating to the provision of directory information,<sup>43</sup> measures for end-users with disabilities,<sup>44</sup> and measures relating to billing.<sup>45</sup>

## Ofcom's duties and legal tests

2.27 We can only set or modify universal service conditions and general conditions where we are satisfied that the conditions are:

- a) not unduly discriminatory against particular persons or against a particular description of persons;
- b) proportionate to what they are intended to achieve; and
- c) transparent in relation to what they are intended to achieve.<sup>46</sup>

2.28 In addition, in relation to universal service conditions we must be satisfied that the conditions are objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which they relate.<sup>47</sup>

2.29 In fulfilling our role under the legislation in respect of the implementation of the Order, we must have regard to our duties under the Act. In particular, we must consider our principal duty to further the interests of citizens in relation to communications matters and the

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<sup>39</sup> Section 46(2) of the Act.

<sup>40</sup> In accordance with section 45(10)(a) and (b) of the Act, Ofcom's power to set a universal service condition includes the power to impose (among other things): (i) a requirement to comply with such directions with respect to the matters to which the condition relates; and (ii) an obligation with respect to those matters that is framed by reference to, or is conditional upon, the giving of a consent or of an approval. The substantive and procedural requirements which Ofcom must comply with when giving directions, approvals and consent are set out in sections 49, 49A, 49B and 49C of the Act, including the legal tests set out in section 49(2).

<sup>41</sup> [The universal service conditions and subsequent modifications.](#)

<sup>42</sup> [The Public Call Box Direction 2006](#)

<sup>43</sup> General conditions B2.2, B2.3, B2.4, B2.5 and B2.6(a).

<sup>44</sup> General conditions C5.1 – C5.15.

<sup>45</sup> General conditions C3.2 and C3.7 – C3.10.

<sup>46</sup> Section 47 of the Act.

<sup>47</sup> In accordance with section 47(3) of the Act, this requirement does not apply in relation to the setting of general conditions.

interests of consumers in relevant markets, where appropriate by promoting competition.<sup>48</sup> In the carrying out of our functions to fulfil these general duties, we are required to secure (among other things) the availability throughout the UK of a wide range of electronic communications services.<sup>49</sup> We must also have regard (among other things) to the following:

- a) the desirability of ensuring the security and availability of public electronic communications networks and public electronic communications services;<sup>50</sup>
- b) the desirability of ensuring that relevant markets facilitate end-to-end connectivity in the interests of consumers in those markets;<sup>51</sup>
- c) the interests of those consumers in respect of choice, price, quality of service and value for money;<sup>52</sup>
- d) the vulnerability of children and of others whose circumstances appear to us to put them in need of special protection;<sup>53</sup>
- e) the needs of persons with disabilities, of the elderly and of those on low incomes;<sup>54</sup>
- f) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas;<sup>55</sup> and
- g) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.<sup>56</sup>

2.30 We must also act in accordance with the six requirements at section 4 of the Act of which the following appear particularly relevant:

- a) promoting the interests of all members of the public in the UK;
- b) carrying out our functions in a manner which, as far as practicable, does not favour one form of network, communications service or associated facility; or one means of providing or making available such a network, service or facility;
- c) promoting connectivity.<sup>57</sup>

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<sup>48</sup> Section 3(1) of the Act.

<sup>49</sup> Section 3(2)(b) of the Act.

<sup>50</sup> Section 3(4)(ea) of the Act.

<sup>51</sup> Section 3(4)(eb) of the Act.

<sup>52</sup> Section 3(5) of the Act.

<sup>53</sup> Section 3(4)(h) of the Act.

<sup>54</sup> Section 3(4)(i) of the Act.

<sup>55</sup> Section 3(4)(l) of the Act.

<sup>56</sup> Section 3(3)(a) of the Act.

<sup>57</sup> Section 4 of the Act.

## Impact assessment

- 2.31 The analysis presented in this document constitutes an impact assessment as defined in section 7 of the Act.
- 2.32 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policymaking. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our decisions would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities. However, as a matter of policy, we are committed to carrying out impact assessments in relation to the great majority of our policy decisions.<sup>58</sup>

## Equality impact assessment

- 2.33 Section 149 of the Equality Act 2010 (the '2010 Act') imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.
- 2.34 Section 75 of the Northern Ireland Act 1998 (the '1998 Act') also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Our Revised Northern Ireland Equality Scheme explains how we comply with our statutory duties under the 1998 Act.<sup>59</sup>
- 2.35 To help us comply with our duties under the 2010 Act and the 1998 Act, we have assessed the impact of our decisions on persons sharing protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations.
- 2.36 We have responded to specific stakeholder comments relating to our equality impact assessment in Section 3 (see paragraph 3.181), in particular a concern that our proposals discriminate against certain groups of people covered by the protected characteristics. The changes we are making to the PCB removals process are designed to ensure that PCBs continue to be provided to meet the reasonable needs of all end-users, specifically focussing on the minority of users that are likely to still use them, such as those in remote or rural areas or vulnerable customers who might otherwise be at risk of social and/or

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<sup>58</sup> For further information about our approach to impact assessments, see the guidelines: [Better Policy Making - Ofcom's approach to Impact Assessment](#).

<sup>59</sup> Ofcom, 2019. [Revised Northern Ireland Equality Scheme for Ofcom](#).

economic exclusion. We recognise that older people may be more likely to not have access to a mobile phone and therefore may be disproportionately affected by the widespread removal of PCBs. To address this we have ensured that our criteria for PCB removals will continue to protect those PCBs that are still needed, including by older people. We also consider our changes have the potential to positively impact users with a disability, by allowing more flexibility for Street Hubs (which are more accessible to disabled users) to be used by BT as part of meeting its universal service obligations.

## Structure of this document

2.37 The rest of this document is set out as follows:

- **Section 3** sets out our decisions to change the universal service conditions relating to the provision of PCBs, including a summary of, and our response to, stakeholder comments from our November consultation;
- **Section 4** sets out our decision to introduce a new resilience condition for PCBs, including our response to stakeholder comments on resilience; and
- **Section 5** sets out our decision on changes to the other universal service conditions, including itemised billing, directories, reporting on quality of service information and other minor changes. It also includes a summary of, and our response to, stakeholder comments on the issue of fax provision under the USO.

2.38 The Annexes are set out as follows:

- **Annex A1:** modifications to (and restatement of) the universal service conditions;
- **Annex A2:** public call box guidance; and
- **Annex A3:** Ofcom letter to DCMS on removal of fax from the USO.

## 3. Provision of public call boxes

- 3.1 In this section we outline the changes we are making to the rules on BT and KCOM with respect to the provision of PCBs, following consideration of responses to our November consultation.
- 3.2 The changes we are making include:
- i) amending the definition of PCBs to focus on those services most needed by end-users and to allow BT and KCOM greater flexibility to offer free calls and additional services. We have also removed the requirement for at least 70% of PCBs to take cash and replaced it with a requirement on BT and KCOM to assess whether there is an ongoing user need to use cash at a particular PCB;
  - ii) replacing local authorities' ability to veto the removal of a PCB (the 'local veto') with a clear, consistent set of criteria in our rules to protect from removal those boxes that are still needed (e.g. in locations without mobile coverage). We are also introducing a revised consultation process to ensure evidence from local authorities is taken into account before a PCB is removed; and
  - iii) updating the requirements on BT and KCOM for assessing requests for the installation of a new PCB. Where BT and KCOM receive such requests from a relevant public body they must assess whether there is a reasonable user need for the proposed new PCB.
- 3.3 To implement these changes, we have made a number of amendments to the universal service conditions on BT and KCOM (see Annex 1). We have also revoked the existing PCB Direction and Guidance and introduced a new set of guidance (see Annex 2).
- 3.4 Below we provide a summary of PCB usage and user needs, before setting out more details of the changes we are making, including our consideration of the responses we received to our November consultation proposals.

### Current PCB usage and user needs

- 3.5 BT and KCOM currently provide around 20,000 PCBs across the UK.<sup>60</sup> BT provides the vast majority of these and approximately 9,200 of its PCBs are known to be the 'last at a site' (where a site is defined as 400 metres' walking distance from the next nearest PCB).<sup>61</sup>
- 3.6 Approximately 2.3m calls were made from BT's PCBs in the 2021/22 financial year, compared to around 5m calls in 2019/20.<sup>62</sup> Usage varies significantly between individual

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<sup>60</sup> KCOM has approximately 290 PCBs (KCOM's response to our formal information request dated 9 July 2020), whereas BT has 19,433 (see: [Service Level reporting](#), December 2021).

<sup>61</sup> BT's response to our formal information request dated 28 May 2021. KCOM does not have figures on the number of its PCBs that are the last at a site as it assesses distance from the next nearest PCB on a case-by-case basis when considering removals.

<sup>62</sup> BT's response to our formal information request dated 25 May 2022. KCOM's PCBs also made 192,000 calls in 2019/20. (KCOM's response to our formal information request dated 9 July 2020).



PCBs. For example, in the year to May 2020, approximately 14% of BT's PCBs made more than 500 calls, while around 9% did not make a single call.<sup>63</sup>

- 3.7 BT has been rationalising its PCB estate under the current removals process (see paragraphs 3.63-3.68 below). Between 2017 and 2020, BT has removed nearly 20,000 PCBs, including nearly 5,000 last at a site PCBs in the year to May 2020 (following consultation with the relevant local authorities). Under BT's 'Adopt a Kiosk' scheme<sup>64</sup> over 6,000 red kiosks have also been adopted by local communities and converted to a range of different uses, such as installing a defibrillator, or using it as a mini art gallery or library. In addition to its PCBs, BT has a number of connected on-street devices known as Street Hubs, which offer free outgoing calls to UK landline and mobile numbers as well as a range of other services.<sup>65</sup> BT has approximately 500 such devices.<sup>66</sup>
- 3.8 In our November consultation we highlighted how PCB user needs had changed since 2006, given greater take up of mobile services and improved mobile coverage. We noted that PCBs were no longer used by most consumers<sup>67</sup> but that PCBs could still offer vital services for some, particularly people in areas with no mobile coverage or those without access to a landline or a working mobile phone. Approximately 4% of the UK's adult population do not use a mobile phone (increasing to 10% for those over 65).<sup>68</sup> BT's consumer research found that non-mobile phone users were disproportionately more likely to use a PCB (17% vs. 8%) and 30% of non-mobile phone users said they were likely to use a PCB in future.<sup>69</sup> In terms of mobile coverage, whilst 99% of UK premises have coverage for mobile calls from all operators, the total UK geographic area covered by all operators is between 85-92%, and 4% of the UK's geographic area (11% in Scotland) is in voice and text 'not-spots'.<sup>70</sup>

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<sup>63</sup> Ofcom analysis based on BT's response to our formal information requests dated 9 July 2020 and 28 May 2021. Figures are also adjusted to account for some duplication of outgoing calls, as reported by BT in response to our request dated 28 May 2021. In our November consultation, we noted that we had undertaken our analysis of usage at an individual PCB level using 2019/20 data, rather than 2020/21 data, to exclude the potential impact of the Covid-19 pandemic on PCB usage. As part of this statement, we have gathered some high-level data on PCB usage for 2020/21 and 2021/22 from BT. This shows that, whilst there was a higher drop in BT's PCB usage in 2020/21, the decline in usage in 2021/22 was more consistent with previous years' trends. However, we did not consider it was necessary, or proportionate, to update the data at the individual PCB level for the purposes of this statement given that we have used data primarily for understanding and illustrating individual PCB usage patterns and we have not directly relied on it for the purposes of making policy.

<sup>64</sup> Under the scheme, certain bodies (such as local authorities, parish councils or local charities) can apply to BT to adopt their local red kiosk (with the telephone equipment removed) for a £1 fee, provided that the PCB meets certain criteria (and is not needed by BT to meet its universal service obligations).

<sup>65</sup> These include a dedicated 999 button, free wi-fi, two USB charging points, council services via a touchscreen tablet, two 75-inch digital displays used for public service announcements and advertising, and sensors that can capture data on air and noise pollution, outdoor temperature and traffic conditions.

<sup>66</sup> BT slide pack titled "Public Call Boxes USO" presented to Ofcom on 16 March 2021.

<sup>67</sup> For example, BT's 2020 consumer survey evidence found that only 8% of people surveyed said that they had used a PCB in the last year. Populus, June 2020, [A review of the UK public's perceptions and use of payphones](#).

<sup>68</sup> Ofcom Technology Tracker 2021.

<sup>69</sup> Populus, June 2020, [A review of the UK public's perceptions and use of payphones](#) ('BT consumer research').

<sup>70</sup> [Connected Nations Spring Update](#), May 2022. The Shared Rural Network (SRN) should extend this voice coverage further by 2025. Under the SRN, the UK Government and the mobile network operators have agreed to deliver combined 4G coverage to 95% of the UK's landmass – see the [Shared Rural Network website](#).

3.9 Whilst the usage of PCBs continues to decline, the evidence shows that some PCBs are still being used (and some quite significantly).<sup>71</sup> BT's consumer research,<sup>72</sup> and our 2019/20 evidence on the types of calls made from PCBs, shows an ongoing user need. In particular, we highlighted in November that:

- the majority of outgoing calls from PCBs are made to mobile numbers (59%), and a significant proportion are also made to UK landline numbers (16%),<sup>73</sup> with over half of consumers surveyed in BT's research agreeing that making a call to a landline or mobile number was an important feature of a PCB;
- BT's consumer survey evidence also found that 86% of respondents said that being able to make an emergency call was an important feature of a PCB, and call usage data shows that 144,000 calls were made to emergency services from PCBs.<sup>74</sup> Given the potential importance of emergency calls, this ongoing usage indicates that PCBs still provide a crucial option for users to make such calls; and
- nearly 5% of PCB outgoing calls were to helplines, including around 26,000 calls made to Childline (the NSPCC suggested this equates to approximately 3.7% of total calls made to Childline)<sup>75</sup> and 21,000 calls to Samaritans during the year to May 2020.<sup>76</sup> We consider that the ability to call helplines from a PCB is particularly important given that a PCB can provide an option for people who do not feel comfortable making such calls from their landline or mobile (for example because of domestic abuse).

3.10 Based on this evidence, we consider there is still a reasonable need for users to be able to access PCBs to make emergency calls as well as other outbound calls to UK mobile and landline numbers (including helplines) at a minimum. Whilst this is particularly the case in rural areas where mobile coverage may be more limited, it is not necessarily restricted to these areas given that there are still users who may rely on the PCB in their area to make calls for reasons other than lack of mobile coverage. Such users may also be more likely to be part of vulnerable groups, such as people on low incomes or those who are homeless, as well as those seeking access to helplines.

3.11 We therefore said in November that there were a number of changes and updates required to the PCB requirements on BT and KCOM to reflect the fact that, whilst continued availability of PCBs remains important for a minority of users, there has been a

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<sup>71</sup> For example, 14% of BT's PCBs and 56% of KCOM's PCBs made more than 500 calls during 2019/20. Ofcom analysis based on BT's and KCOM's response to our formal information request dated 9 July 2020.

<sup>72</sup> In addition to those without a mobile phone, or in areas of poor mobile coverage, [BT's consumer research](#) found that mobile phone users can also be reliant on a PCB to make a call: "my mobile phone had run out of battery" and "I did not have my mobile phone with me at the time, and wanted to make a call" were the most popular reasons given for using a payphone.

<sup>73</sup> Ofcom analysis based on BT's and KCOM's response to our formal information request dated 9 July 2020, adjusted where possible for the issue of duplicate outgoing calls based on BT's response to our formal information request dated 28 May 2021.

<sup>74</sup> Ofcom analysis based on BT's response to our formal information request dated 9 July 2020, adjusted where possible for the issue of duplicate outgoing calls based on BT's response to our formal information request dated 28 May 2021.

<sup>75</sup> [NSPCC Response](#) to our November consultation

<sup>76</sup> Ofcom analysis based on BT's and KCOM's response to our formal information request dated 9 July 2020, adjusted where possible for the issue of duplicate outgoing calls based on BT's response to our formal information request dated 28 May 2021.

significant decline in usage. In particular we said the obligations on BT and KCOM should be updated and streamlined to ensure that PCBs that are no longer needed can be removed.

- 3.12 The upcoming migration of the telephony network to IP (see Section 2) also means that PCBs will require upgrades and BT has estimated this will cost approximately £300-£400 per PCB.<sup>77</sup> We therefore want to ensure, in line with our policy objectives, that BT and KCOM only incur such upgrade costs for those PCBs that are still needed to meet the reasonable needs of end-users, in particular to provide a safety net for those in remote or rural areas, or vulnerable customers.

## Services provided by PCBs

- 3.13 Our proposals in November included a number of changes to the services provided by PCBs. Below we set out these proposals, our response to the stakeholder comments we received, and our decision. In particular we discuss the following areas:
- uniform pricing and free calls;
  - incoming calls;
  - types of numbers that can be called from PCBs; and
  - cash payment facilities in PCBs.

## Uniform pricing and free calls

### Our November proposals

- 3.14 The universal service conditions currently specify that BT and KCOM's PCBs must offer prices that are uniform across the UK (unless Ofcom has determined there is a clear justification for not doing so).<sup>78</sup> BT's Street Hubs offer free outgoing calls to UK landlines and mobiles but they are not currently classified as PCBs under the universal service conditions.
- 3.15 In the November consultation we said the wider availability of PCBs that offer free calls to all UK landline and mobile numbers<sup>79</sup> would be beneficial to end-users, particularly more vulnerable users who may not have access to cash or other payment methods. We therefore said we wanted to ensure that BT and KCOM had the flexibility to offer a wider range of free calls from some PCBs, and that our rules were not acting as a barrier to BT using its Street Hubs to fulfil its universal service obligations.
- 3.16 We proposed to amend the universal service conditions to make clear that PCB services can be provided either on the basis of uniform pricing, or for free. We noted this would

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<sup>77</sup> In addition to approximately £305k in initial development costs. BT's response to our formal information request dated 28 May 2021. KCOM intends to continue to use copper for the end connection of its PCBs (which is feasible given its compact and urban footprint), so it will not incur any migration to IP costs for its PCBs for the time being.

<sup>78</sup> Condition 3(5) of the universal service conditions.

<sup>79</sup> General Condition A3.4 already requires operators of Pay Telephones to provide access to the emergency call numbers. "112" and "999" at no charge and without having to use coins or cards. [General Conditions of Entitlement](#).

mean that, where BT and KCOM choose to charge for calls from some PCBs, they must still charge a uniform price across the UK.

### Stakeholder comments

- 3.17 Most respondents<sup>80</sup> agreed with our proposals, with some highlighting that free calls can be of particular benefit to vulnerable users and those in rural areas. The Communications Consumer Panel (CCP) welcomed the initiative to offer free on-street services through Street Hubs and highlighted the benefit of these new devices being accessible to a range of users.
- 3.18 Some respondents (the National Society for the Prevention of Cruelty to Children (NSPCC), Helplines Partnership, Shropshire Council, Monymusk Community Council and Scottish Borders Council) emphasised the benefits of being able to access advice and helplines for free. They also stressed the importance of making it clear where calls are free, including to emergency services.
- 3.19 An individual respondent considered free calls should be carefully considered, noting the potential risk of abuse (e.g. hoax calls).
- 3.20 Comms Council UK (CCUK) raised concerns about the Payphone Access Charge (known as the 'PAC'), which is the fee levied by BT and KCOM for originating calls from PCBs to free-to-caller numbers. It noted this was part of Ofcom's previous telephony USO review and believed it should be considered as part of the current review. It argued that if BT is able to provide all calls for free from certain PCBs (and absorb the wholesale termination rates on those calls), then it should be able to afford the wholesale origination charge for free to caller numbers, rather than receiving the much higher PAC for those calls. It said it was unacceptable for Ofcom to effectively endorse the cross-subsidy of BT's advertising business and the availability of free calls, from the PAC. It also said it understood that BT did not account for advertising revenues as an offset to PCB running costs when calculating the PAC.

### Our response

- 3.21 We agree with respondents that wider availability of free calls from PCBs could provide benefits to many users, particularly those who may be vulnerable.
- 3.22 We recognise the need for users to have clarity regarding the charges (if any) for PCB services. Information about pricing is particularly important where charges are applicable. We note that general condition C2.13 requires PCBs<sup>81</sup> to prominently display a notice which confirms that calls to emergency services are free, as well as the minimum charge

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<sup>80</sup> BT, KCOM, East Ayrshire Council, Strachur Community Council, Shropshire Council, Scottish Borders Council, the Communications Consumer Panel, NSPCC, Helplines Partnership, and four individuals.

<sup>81</sup> Specifically this general condition applies to 'public pay telephones', which is defined as a pay telephone available to the general public. A pay telephone is defined as a telephone for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.

payable for the connection of a call. BT offers free UK mobile and landline calls from its Street Hubs, which is made clear on the screen display.<sup>82</sup>

- 3.23 We recognise concerns related to the risk of free calls being abused. We consider it is for BT and KCOM to assess what mechanisms may be necessary to protect against any potential abuse if they choose to offer more free calls (noting that they already need to manage this risk in relation to existing free calls, such as 999 and some helplines).
- 3.24 We note CCUK's concerns about the PAC. This fee was introduced in 1996 as a method to compensate BT and KCOM for the costs involved in handling free calls (in particular 080 numbers) from PCBs as part of their universal service obligations. It is a pence per minute fee (currently 70ppm) charged to service providers using free-to-caller numbers. BT does not charge the PAC to Helplines Partnership members that are in the voluntary sector and provide helplines on a free to caller basis.
- 3.25 The PAC is not a focus of our universal service review because it does not feature in the universal service conditions. As part of a separate review in 2005, BT and KCOM gave formal undertakings to ensure that the PAC is transparent, cost-orientated, not unduly discriminatory and sufficiently unbundled to ensure that nothing unnecessary is included.<sup>83</sup> These undertakings remain in place and are designed to ensure that BT (and KCOM) do not recover unnecessary costs from the PAC, which should mean there is no potential for them to cross-subsidise other parts of their business. More importantly, BT has confirmed that the PAC is not charged on its Street Hubs, and that it has no plans to introduce the PAC to relevant free to caller numbers from its Street Hubs in future (including any Street Hub which it uses to replace an existing PCB in the future).<sup>84</sup>
- 3.26 We remain of the view that there is a clear justification for allowing BT and KCOM to offer free calls from some PCBs, given the obvious benefits to PCB users. Allowing this will also offer greater flexibility to BT and KCOM to innovate in their PCB service provision. Where BT and KCOM choose to charge for calls from some PCBs, they must still charge a uniform price across the UK.

## Removal of requirement to support incoming calls, where all outgoing calls are free

### November proposals

- 3.27 Currently the definition of PCBs in the universal service conditions requires all PCBs to receive incoming calls.<sup>85</sup> BT's Street Hubs cannot currently receive any incoming calls (and are therefore not classed as PCBs under the conditions). In November we noted that the vast majority of PCB calls are outbound and that there was less evidence of user need for

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<sup>82</sup> See also: [Street Hub FAQs](#).

<sup>83</sup> [Payphone access: ensuring free-to-caller access from payphones](#), Ofcom, 2005.

<sup>84</sup> BT email to Ofcom dated 13 April 2022.

<sup>85</sup> The requirement to provide 'Call Box Services' contained in the current universal service conditions, includes the provision of "Publicly Available Telephone Services", in turn defined as "*a service available to the public for originating and receiving national and international calls and access to Emergency Organisations...*"(emphasis added).

PCBs to accept incoming calls.<sup>86</sup> We recognised that one scenario where receiving an inbound call from a PCB might be useful is if a PCB user was low on cash or credit; in that case, they may ask to be called back at that PCB. We noted, however, that if outbound calls were free from the PCB, then this would not be necessary. We therefore considered that where outbound calls were free, there was no reasonable need for PCBs to receive inbound calls. We proposed amendments to the definition of a PCB in the universal service conditions to reflect this.

### Stakeholder comments

- 3.28 BT, KCOM, East Ayrshire Council, Strachur Community Council and two individuals supported our proposals. BT said that only 15% of its PCB calls were incoming, and agreed that these calls are often the result of low credit call backs.
- 3.29 The Highland Council, Scottish Borders Council, Monymusk Community Council, Helplines Partnership, and two individuals disagreed with our proposal. The Highland Council said that removal of incoming calls should only be allowed alongside a parallel requirement to ensure that outbound calls to emergency services can only be terminated by the emergency call operator on confirmation that emergency services have arrived at the area – it said such safeguards should not be discretionary. Monymusk Community Council similarly asked what would happen if an answer cannot be given by emergency services to a PCB user immediately, noting that a call back would be required.
- 3.30 Helplines Partnership said that in some cases there may be a need for an organisation to call back a person in crisis who may have disconnected the call, particularly in areas which see a high frequency of people taking their own life. Scottish Borders Council said that to promote community resilience PCBs should be as easy to use as possible, including offering incoming calls among other features.

### Our response

- 3.31 We recognise the importance of ensuring calls to emergency services stay connected. We noted in the November consultation that BT has built in additional protections in this respect for emergency calls from its Street Hubs. These protections ensure that it is not possible for a user to end an emergency call from one of BT's Street Hubs: calls stay connected until the emergency call operator ends the call (such as when they know the relevant services have arrived to the area). This system relies on software installed in Street Hubs and an agreed protocol with emergency service call handlers.
- 3.32 BT has indicated that a similar arrangement would not currently be possible for its traditional PCBs, but it has also confirmed that it has no plans (or any commercial incentive) to remove incoming calls from these units, and that it will not remove incoming

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<sup>86</sup> BT and KCOM's PCBs received just over 1m inbound calls during the year to May 2020, and we estimate that 19% of BT's PCBs and 42% of KCOM's PCBs received no inbound calls at all during this period. Ofcom analysis based on BT's and KCOM's response to our formal information request dated 9 July 2020.

calls from PCBs unless it can keep calls to emergency services and helplines open.<sup>87</sup> We welcome this confirmation from BT, and agree with stakeholder comments on the importance of ensuring that, where incoming calls are not available, there are additional protections in respect of emergency calls to ensure they cannot be disconnected by end-users. We have therefore made amendments to the definition of a PCB to incorporate a requirement that such protections must be in place for PCBs which do not offer incoming calls.<sup>88</sup>

- 3.33 We note Helplines Partnership’s comment that there may also be circumstances where a similar mechanism for certain helpline calls could be important for ensuring such calls remain connected if incoming calls are not available at a PCB, particularly helplines for people in crisis such as Samaritans. Whilst we recognise the possibility of such circumstances arising, they may be more infrequent than for emergency calls and it is also less straightforward to identify all relevant helplines to which a solution should apply. We therefore do not consider it appropriate to impose a specific requirement requiring additional protections for helpline calls where there are no incoming calls at this stage. We note, however, that BT has told us that it would be feasible to support a similar approach to emergency calls through amendments to its Street Hub software as long as this is supported by the systems and processes used by the relevant helplines.<sup>89</sup> BT has been engaging with Helplines Partnership in an attempt to agree an approach that could be delivered with its voluntary sector members. We welcome this.
- 3.34 Overall, we remain of the view that user needs are met where a PCB offers free outgoing calls and it is not necessary for these PCBs to continue to offer incoming calls, as long as there is a mechanism for ensuring emergency calls cannot be disconnected by the user.

## Numbers that can be called from PCBs

### November proposals

- 3.35 PCBs are currently required to offer outgoing calls to all types of telephone number (including international calls). In November we highlighted that the vast majority of outgoing calls from PCBs are made to UK mobile numbers, UK landline numbers and freephone numbers. In contrast, the volume of calls to other types of numbers is very small. In the year to May 2020, only 2% of outgoing calls from BT and KCOM’s PCBs were made to ‘other’ types of numbers (including international, premium rate, 084 etc.) and less than 0.5% of calls were to Directory Enquiries (118 numbers).<sup>90</sup>

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<sup>87</sup> BT email to Ofcom dated 13 April 2022.

<sup>88</sup> In particular, see the new definition of “Outgoing-Only PCB” in the conditions, which provides that such a PCB must ensure that calls to emergency organisations using 112/999 numbers cannot be disconnected by the caller but remain connected until the emergency call operator terminates the call.

<sup>89</sup> Meeting between Ofcom, Helplines Partnership and BT on 9 May 2022.

<sup>90</sup> Ofcom analysis based on BT’s and KCOM’s response to our formal information request dated 9 July 2020, adjusted where possible for the issue of duplicate outgoing calls based on BT’s response to our formal information request dated 28 May 2021.

- 3.36 Given the limited evidence of reasonable user need to make these types of calls from PCBs, we proposed to amend the definition of PCBs to remove the requirement for them to offer calls to international, premium rate and other unbundled tariff numbers.<sup>91</sup>

### Stakeholder comments

- 3.37 Most respondents (BT, KCOM, East Ayrshire Council, Strachur Community Council, NSPCC and two individuals) supported our proposed changes. BT said that only 1% of its PCB calls are made to unbundled tariff and international numbers and it therefore agreed there is little evidence of consumer need for these services. It noted that calls to unbundled tariff numbers can incur significant termination charges, and that continuing to require access to these numbers from PCBs could prevent it from offering free calls from PCBs in future. BT also welcomed that our proposed conditions would maintain the flexibility for it to continue to offer international and premium calls where it knows they may be of benefit to users (such as from PCBs close to airports or international transport hubs where it might expect higher demand).
- 3.38 Monymusk Community Council and one individual respondent disagreed with the proposal. Monymusk argued that international and other calls could be essential where users had no other means of communication. The CCP also raised concerns about international calls not being available from PCBs, in particular it wanted to ensure that calls from Northern Ireland to the Republic of Ireland were not considered international. An individual respondent argued more generally that international calls should be available from PCBs for travellers.
- 3.39 CCUK and Simwood argued that BT and KCOM are required under general condition B4.2<sup>92</sup> to offer access to non-geographic and international numbers from PCBs, unless it is not technically and economically feasible to do so. They argued that wholesale rates for non-geographic and premium rate numbers, as well as to many international numbers, are equivalent to or lower than equivalent domestic calls, and therefore BT and KCOM should have to demonstrate the non-viability of offering these services before ceasing to provide access to those numbers from PCBs.

### Our response

- 3.40 We note the concerns about PCB users being able to access other types of numbers if a user has no other communications method or when they are travelling. In assessing which numbers should be required to be accessible from PCBs under the universal service, we have focused on whether there is evidence of user need. Given the proportion of calls made to these numbers (such as unbundled tariff and international numbers) from PCBs is

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<sup>91</sup> 'Unbundled Tariff Number' means a non-geographic number starting 084, 087, 090, 091, 098 or 118. See Ofcom, [General Conditions of Entitlement](#).

<sup>92</sup> B4.2 requires providers to ensure, where technically and economically feasible, that end-users in any part of the United Kingdom or European Union are able to: (a) access and use Non-Geographic Numbers; and (b) access all Telephone Numbers provided in the United Kingdom or European Union, regardless of the technological devices used by the operator, including those in the National Telephone Numbering Plan and Universal International Freephone Numbers (UIFN).



very small, we do not consider there is sufficient evidence of an ongoing user need to access these types of calls. However, we would welcome BT maintaining access from PCBs close to airports or international transport hubs where there might be a greater need. We also note that users will still be able to use calling cards to call international numbers from PCBs.

- 3.41 On the CCP's concern about calls from PCBs in Northern Ireland to the Republic of Ireland, we note that BT's pricing<sup>93</sup> is structured so that such calls are charged at a domestic rate, hence are not classed as international calls. BT has confirmed that it treats such calls as 'national' and therefore, if it were to remove access to international calls from any of its PCBs in Northern Ireland, those PCBs would continue to allow calls to be made to the Republic of Ireland.<sup>94</sup> Should this change in future we would revisit whether to amend the conditions to make clear that such numbers are required to be offered from PCBs.
- 3.42 In response to CCUK and Simwood's point, we recognise that removing the requirement for PCBs to offer access to unbundled tariff and international numbers under the universal service conditions will not affect the application of general condition B4.2. If BT and KCOM decide to make changes to the types of calls that are available from their PCBs, they will need to ensure they remain compliant with this general condition.
- 3.43 We continue to consider that there is still a reasonable need for users to be able to make calls to UK mobile and landline numbers (as well as to emergency and helpline services) and note that no respondents disagreed with this.

## Requirements for PCBs to take cash

### November proposals

- 3.44 Under the PCB Direction, BT and KCOM are currently required to ensure that at least 70% of their PCBs accept cash payment.<sup>95</sup> In November we noted that the use of cash has steadily declined in recent years, and that BT's Street Hubs do not have a payment facility – there is no need for one given all outgoing calls are free. We said that maintaining the existing 70% requirement was unlikely to be appropriate given the declining use of cash, and that removing the requirement might help support the future provision of new types of PCBs, in line with our policy objectives.
- 3.45 At the same time, we recognised that where PCBs continue to charge for calls, there may be some users (particularly those who are vulnerable) who may still be reliant on cash, either because they do not have access to alternative payment mechanisms or because they are seeking anonymity.
- 3.46 We therefore proposed to replace the requirement that 70% of PCBs must offer cash payment facilities with a condition specifying that BT and KCOM may only remove an

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<sup>93</sup> [BT Price List Part 26: BT Payphone Call Charges](#).

<sup>94</sup> BT also confirmed that it would only expect to remove access to international calls from its PCBs if it was also making UK national and mobile calls free from that PCB. Emails from BT to Ofcom dated 22 April 2022 and 24 May 2022.

<sup>95</sup> PCB Direction, paragraph 2.5.

existing cash payment facility where either the PCB offers free calls, or they have reasonably assessed there is no ongoing user need to pay by cash. We set out in our draft guidance that if the majority of calls made from a PCB were paid for using cash, we would not expect the cash payment facility to be removed from that PCB.<sup>96</sup>

### Stakeholder comments

- 3.47 Some respondents (BT, East Ayrshire Council, Strachur Community Council and one individual) agreed with our proposal. BT said the cost of providing cash payment facilities is steadily increasing, both because of the cost of collecting cash and of repairing damaged and vandalised cash systems. It also said that in future it would be more beneficial to offer free calls from PCBs than to invest in alternative payment mechanisms.
- 3.48 Shropshire Council and Monymusk Community Council also supported the proposal but only on the basis that BT and KCOM would have to seek guidance from, and consult with, local authorities as part of their assessments of local need for cash payment facilities.
- 3.49 Helplines Partnership and one individual said particular groups of users such as older or lower income users could be adversely affected by the removal of cash, and highlighted that it may affect homeless or younger people who wish to use helpline services. It suggested that such issues could be resolved by ensuring its members' helplines remain free to call from PCBs.
- 3.50 KCOM raised concerns about our proposed guidance on how it should determine whether cash is still required. It said that none of its PCBs have card payment facilities, so all its PCBs have a majority of calls made with cash. As such, if it wanted to remove cash payment facilities in future, it said it would need to install card payment systems concurrently to then establish whether a majority of users paid with cash.
- 3.51 One individual respondent suggested that while the level of cash provision required could be reduced, there was merit in retaining it at some level, while another raised concerns about the reliability of the card payment services currently used by BT, saying that they have been out of service for some time.

### Our response

- 3.52 As set out in November, we recognise that some users may continue to be reliant on cash and we want to ensure that, where there is evidence of ongoing need for cash payment facilities at a particular PCB, they are retained. We consider that requiring BT and KCOM to undertake an assessment of whether there is an ongoing user need for cash at a particular PCB is the most appropriate way to achieve this.
- 3.53 We have updated our guidance to make clear that BT and KCOM will need to ensure they have appropriate evidence to support their assessment of user need. We recognise that it may be helpful in some circumstances for BT and KCOM to consult relevant local authorities as part of gathering that evidence on whether there is an ongoing need for cash

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<sup>96</sup> See paragraph A6.14 in Annex 6 of the November consultation.

usage at a PCB and we have therefore included a reference to this in our guidance. However, BT and KCOM may have sufficient evidence from, for example, existing cash usage to support any assessment.

- 3.54 In relation to Helpline Partnerships' point, we note that all its members currently use free to call 080 numbers and users will continue to be able to access these, and all other free to call numbers (such as 111), even if cash payment facilities are removed.
- 3.55 We recognise KCOM's concern about the impact of our proposed guidance given that none of its PCBs currently have card payment facilities. As above, our updated guidance now makes clear that BT and KCOM must take reasonable steps to gather appropriate evidence of ongoing user need for cash payment facilities, and we have also made clear that existing cash usage is just one example of such evidence. In particular, we would only expect existing cash usage to be used as relevant evidence where a PCB has both cash *and* card payment mechanisms (as the proportion of payments by cash would give an indication of ongoing need). Given that KCOM will not be able to rely on this comparison, it will need to identify alternative evidence and may find it useful to consult with relevant local authorities.
- 3.56 We remain of the view that replacing the current 70% threshold with a requirement that BT and KCOM may only remove cash payment facilities either where all calls are made free, or where they have reasonably assessed there is no ongoing user need to pay by cash at that PCB is appropriate to reflect societal changes while ensuring user needs are met. Given the declining use of cash, which has been accelerated by the pandemic, we consider that applying a reduced threshold would be difficult to justify and could be less effective at meeting user needs.
- 3.57 On the point raised about a potential fault with BT's PCB card payment facilities, we have checked this with BT. It has confirmed that this service, which is provided by a third party, is not currently working and it has therefore enabled free UK national (01, 02 and 03) and mobile (07) calls from all of its PCBs which do not accept cash until the fault is resolved.<sup>97</sup> We will remain engaged with BT on this issue to ensure it is resolved. In future we expect BT to ensure it closely monitors the provision of its PCB card payment systems so that any issues are identified and rectified quickly and users are not prevented from making calls.

## Summary of decisions on PCB services

- 3.58 We have decided to proceed with implementing the proposals set out in our November consultation. In particular we have decided to:
- **allow PCBs to offer all calls for free:** we have amended the universal service conditions to make clear that PCBs shall be provided either on the basis of uniform pricing, or for free. This still means that where BT and KCOM choose to charge for calls from some PCBs, those prices must be uniform regardless of the geographic location of the PCB.

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<sup>97</sup> Email from BT to Ofcom dated 22 April 2022.

- **where outgoing calls are free, allow a PCB not to provide incoming calls:** we have introduced a new definition of an ‘outgoing-only’ PCB which is either a new PCB or one which has replaced a ‘traditional’ PCB, and offers all outgoing calls for free, and includes a mechanism to ensure that emergency calls cannot be disconnected by the caller. PCBs which do not offer all calls for free will still be required to offer incoming calls – these are defined in the conditions as ‘traditional PCBs’;
- **remove the requirement for PCBs to allow calls to any type of number:** our amended definition of PCBs only requires them to offer calls to UK landline and mobile numbers, as well as free-to-caller numbers including emergency services and helplines; and
- **removing the requirement for 70% of PCBs to accept cash:** instead we have implemented a new condition requiring that BT and KCOM may only remove an existing cash payment facility where either the PCB offers free calls, or they have reasonably assessed there is no ongoing user need to pay by cash.

3.59 The changes to the universal service conditions and relevant definitions are set out in the schedules to Annex 1 – in particular see conditions 3.18-3.19 and the revised definitions of ‘public call boxes’ and ‘specified numbers’.

3.60 We have updated our new guidance (in Annex 2 – see paragraph A2.23) to set out our expectations that BT and KCOM should take reasonable steps to gather appropriate evidence in assessing ongoing user need to pay by cash.

3.61 We consider these changes will ensure PCBs continue to offer services that meet users’ reasonable needs, whilst at the same time giving BT and KCOM greater flexibility in how they fulfil their USO obligations. This may allow them to offer improved and additional services that end users may value. In particular it may mean that BT can (subject to relevant planning permissions) replace a traditional PCB with one of its new Street Hub devices as part of delivering its universal service obligations.<sup>98</sup>

3.62 These changes may also lead to reduced costs for BT and KCOM in how they deliver PCB services, in particular by reducing the complexity of those services and streamlining them to focus on those most needed by end-users.

## Process for PCB removals

### Current requirements and process

3.63 The universal service conditions specify that where BT or KCOM propose to remove or re-site a PCB (such that it would result in a complete removal of a PCB from a site), they can only do so in accordance with any relevant direction made by Ofcom.

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<sup>98</sup> See paragraph 3.102 below where we discuss how we have amended the definition of PCBs so that the universal service conditions will only apply to PCBs such as Street Hubs where they are used to replace a traditional PCB, or as part of installing a new PCB under the USO.

- 3.64 We published a PCB Direction<sup>99</sup> in 2006 that sets out the process BT and KCOM must follow prior to the removal or re-siting of a PCB that is the last at a site. It specifies that before a PCB can be removed or re-sited, BT and KCOM must:
- display a notice on the PCB informing the public of the proposed change, explaining that they have a period of 42 days in which to make any representations about the proposal, and confirming the name of the relevant public body<sup>100</sup> to which representations may be made; and
  - give written notice of the proposal to the relevant public body with information about the proposal including any information in support of the proposal and making clear that the relevant public body is entitled to object to the proposal.
- 3.65 If the relevant public body objects in writing within 90 days of being notified of the proposal, BT or KCOM cannot remove the PCB in question. This is known as the ‘local veto’.<sup>101</sup>
- 3.66 Alongside this, the 2006 PCB Guidance sets out the current process by which we expect relevant public bodies to consult on proposed PCB removals and how and when the local veto can be exercised.<sup>102</sup>
- 3.67 In deciding which last at a site PCBs it proposes for removal (ahead of going through the above process) BT has developed its own set of criteria.<sup>103</sup> In particular it uses two sets of criteria:
- ‘overriding’ criteria: if the site is a ‘suicide hotspot’ or ‘accident blackspot’ or has no mobile coverage (from any network) or it is at a coastal location; and
  - ‘reasonable needs’ criteria: if the PCB is the only payphone within 800 metres; and there are at least 500 households within 1km; and at least 120 calls of any type have been made from the PCB within 12 months.
- 3.68 If a last at a site PCB meets any of the overriding criteria or all the reasonable needs criteria, BT will not propose that PCB for removal.

## Our November consultation proposals

- 3.69 In November we highlighted evidence which suggested that the current removals process was not working as effectively as it could. In particular we were concerned that the process was potentially burdensome on relevant public bodies’ resources, and that evidence

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<sup>99</sup> Ofcom, [The Public Call Box Direction](#), 2006.

<sup>100</sup> Relevant Public Bodies are currently defined in the Direction as follows: in relation to England, the relevant local District Council (in two-tier local authority areas), London Borough Council, Metropolitan Council, Unitary Council, the Corporation of London or the Council of the Isles of Scilly; in relation to Northern Ireland, the Unitary District; in relation to Scotland, the Unitary Council; in relation to Wales, the County or County Borough Council; or any successor bodies or organisations

<sup>101</sup> Paragraph 2.4 of the Public Call Box Direction 2006.

<sup>102</sup> Ofcom, [Guidance on procedures for the removal of public call boxes](#), 2006.

<sup>103</sup> BT, [Payphone removals](#).

showed that the local veto was not being exercised evenly across the UK.<sup>104</sup> We highlighted that the local veto was sometimes being used for reasons unrelated to factors relating to universal service,<sup>105</sup> and that there was a lack of clarity between providers and public bodies about the evidence used to assess whether there is an ongoing need for a PCB.<sup>106</sup>

- 3.70 We set out that, in accordance with our policy objectives, we wanted to design a process that was straightforward, simple and transparent. We therefore proposed to remove the local veto and replace it with a clear, consistent set of criteria to protect from removal the PCBs that are most needed, while allowing for removal of boxes that are no longer needed.
- 3.71 We said we intended to keep the requirement that the removal process was only necessary where a PCB is the last at a site and we considered that the current definition of a 'site' remained appropriate. We proposed to define any PCB that is the last at a site as a 'Protected PCB' in the conditions.
- 3.72 In identifying the relevant criteria against which 'Protected PCBs' would be assessed, we took account of the reasonable needs of PCB users and proposed that BT and KCOM would not be able to remove a PCB where it met any of the following criteria:
- does not have coverage from all four mobile network providers;
  - is sited at an accident or suicide hotspot;
  - has made 52 or more calls over the past 12 months; or
  - there is a relevant exceptional circumstance which means the PCB is needed.
- 3.73 Where BT and KCOM consider that a Protected PCB does not meet any of the removal criteria and they wish to remove it, we proposed that they must then go through a consultation process with the relevant public body.<sup>107</sup> Following that consultation process, we said that BT or KCOM must notify the relevant public body of its decision, setting out written reasons for the decision, including how it has taken account of any submissions received.
- 3.74 We also said that, given we were proposing to remove the local veto, we considered it was important for relevant public bodies to have an opportunity to challenge a decision made by BT and KCOM under this process. We therefore proposed a new requirement for BT and KCOM to undertake a review of any decision to remove a Protected PCB when appropriately challenged by a relevant public body within 21 days of the original decision being confirmed.

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<sup>104</sup> For example, as part of the consultations BT undertook on proposed removals in 2019/20, one local authority objected to all 40 proposed PCB removals, whereas another accepted all 35 proposed removals. A total of 60 (out of 309) local authorities vetoed all proposed removals in their area. BT's response to Q9 of our formal information request dated 28 May 2021.

<sup>105</sup> We cited BT's data which indicates that around 82 objections from local authorities gave no reason for the objection, and at least 95 were based on solely on reasons related to the appearance of a traditional red kiosk.

<sup>106</sup> For example, in relation to mobile coverage, BT's data indicates that more than 265 objections from local authorities were based on there being no mobile coverage in the area, despite 'no mobile coverage' being one of BT's 'overriding criteria'. We said that this may suggest that local authorities may have higher expectations on the level of mobile coverage needed when assessing whether the PCB is still needed in an area.

<sup>107</sup> We proposed to largely maintain the existing list of 'relevant public body', albeit with some minor amendments to update the relevant definitions.

- 3.75 We proposed to implement these changes through amendments to the conditions on BT and KCOM, accompanied by new guidance.<sup>108</sup>
- 3.76 We estimated that our proposals would be likely to increase the number of PCBs that BT and KCOM could remove compared to the current process, with around 5,000 protected by our criteria. We estimated that this would roughly halve the costs to BT of IP migration compared to keeping the existing process in place.<sup>109</sup>

## Stakeholder responses and our assessment

- 3.77 We received a wide range of comments from stakeholders on our proposed removals process. Stakeholders also raised specific points about our proposed criteria, and the way in which the consultation process would work.
- 3.78 Below we set out the points raised, our assessment of them, and any changes we are making to our November proposals in relation to each of the following areas:
- the removals process and the local veto;
  - defining which PCBs are subject to the removals process;
  - the removal criteria, including:
    - mobile coverage;
    - usage;
    - accident and suicide hotspots; and
    - exceptional circumstances/other reasonable need and other criteria suggested by stakeholders.
  - the consultation and review process with relevant public bodies; and
  - other general comments.

## The removals process and the local veto

### Stakeholder comments

- 3.79 Some respondents welcomed our proposed approach of using criteria to assess reasonable need. BT said the use of criteria that are clear to all stakeholders, and based on reasonable telephony needs, would help deliver greater predictability and cost savings. Shropshire Council also agreed it would enable a more consistent approach. Other respondents did not comment on removing the local veto and focused their response on the individual criteria, which we cover in the later sub-sections below.
- 3.80 Several respondents, however, disagreed with our proposal to remove the ability of relevant public bodies to exercise a veto, including the Highland Council, Scottish Borders

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<sup>108</sup> The proposed requirements relating to removals were set out in condition 3 (3.2-3.16) of Annex 5, and the guidance was set out in Annex 6 (A6.4-6.8) of our [November consultation](#).

<sup>109</sup> This is based on BT's estimates for conversion, which equates to a minimum cost for BT of roughly £1.8-2.3m for 5,000 PCBs, compared to around £3.7m-£4.2m without changes to the current removals process. See paragraphs 3.113–3.114 of our [November consultation](#).

Council, Shropshire Council and Helplines Partnership. They raised concerns that without the local veto communities would no longer have an ability to protect their PCBs and that, unless the criteria were strengthened, many PCBs that were important for local communities would end up being closed. John Lamont MP and David Mundell MP also commented that the proposed removal criteria needed to be strengthened to protect more PCBs. Shropshire Council argued that removing the veto could place a greater burden on local authorities to contest each decision by BT.

- 3.81 Shropshire Council said that incorrect conclusions had been drawn about the use of the local veto by local authorities. It noted that it was not surprising that local veto use was not consistent, given that every local authority is different, with different local needs and interests. It also noted that our proposals did not include any statistics on appeals by BT where the local veto was used inappropriately and argued that it was BT's responsibility to raise such a challenge, rather than for the veto to be removed.
- 3.82 Helplines Partnership and one individual said that relevant local bodies should be able to adopt a functional PCB from BT or KCOM with its payphone system still working. Helplines Partnership said this would ensure that local organisations could step in to keep a PCB in use if it was deemed valuable to the community.
- 3.83 Some respondents raised concerns, however, that our proposed approach would make it more difficult to remove PCBs that were causing issues in a local area. In particular, KCOM noted that removal of its PCBs in recent years had largely been as a result of requests from the local authority and/or the police (driven by concerns from residents about a range of anti-social and criminal behaviour, including drug dealing, vandalism and prostitution). It was concerned that our proposals, in particular our usage criterion (discussed further below), would mean that it would not be able to remove any of its PCBs irrespective of the extent of such behaviour. KCOM said to address this it should be allowed to proceed with a consultation on a PCB removal where there has been a request from the local authority or the police (regardless of whether the PCB met the relevant criteria). BT made a similar request.
- 3.84 New West End Company (NWEC) and the Institute of Historic Building Conservation (IHBC) also argued that there should be a way for local authorities or key local representative groups to pursue a transparent process to make the case for the removal of certain PCBs.

### Our response

- 3.85 We note the concerns raised about the removal of the local veto and recognise that some local bodies want to ensure that PCBs in their areas remain protected. A key objective of this review is to ensure that the universal service conditions are updated to reflect the changes in user demand for PCBs, recognising that there has been a significant decline in PCB usage, and that this trend is likely to continue. The process by which PCBs are removed needs to take account of these developments, and ensure it is proportionate in terms of protecting only those PCBs that are necessary to meet the reasonable needs of end-users.



- 3.86 We consider that replacing the local veto with a set of criteria based on user need is the most appropriate way to ensure that PCBs are retained where there is an ongoing reasonable user need. By putting these criteria into the universal service conditions, it places the obligation directly on BT and KCOM to assess the reasonable need for a PCB where it is the last at a site, and Ofcom will be responsible for enforcing these new obligations.
- 3.87 We note Shropshire Council’s comment that existing inconsistent use of the veto might be expected given that user needs in different areas are likely to vary. However, the evidence we have seen on the use of the local veto shows not only that it is used inconsistently in different areas, but that it is often being used for reasons unrelated to the telephony universal service.<sup>110</sup> We recognise that there is currently an option for BT and KCOM to appeal any inappropriate use of the local veto (via the Competition Appeal Tribunal).<sup>111</sup> However, the fact that this option has been available does not change our view that having an established set of criteria to assess reasonable need (enforced by Ofcom) will offer a more consistent and evidence-based way of ensuring that PCBs are only required to be retained where there is an ongoing need.
- 3.88 Relevant local bodies will still have an opportunity to put forward their views on the PCBs that should be retained in their local areas, based on the relevant criteria. BT and KCOM will be required to take account of the representations received from public bodies prior to making a decision to remove a last at a site PCB. We have also put in place a process for relevant public bodies to challenge a decision made by BT and KCOM to ensure that there are sufficient checks and balances against BT and KCOM’s decision making.
- 3.89 We do not consider that the new process will increase the burden on local authorities, as suggested by Shropshire Council. The consultation process will mean BT and KCOM have to provide evidence of how the removal criteria are met and we would only expect relevant public bodies to need to challenge decisions where it is clear that there is relevant local evidence that BT or KCOM have not taken into account against the criteria.
- 3.90 We note the suggestion for local communities to take ownership of a working PCB where it is considered important to the local community.<sup>112</sup> Where a PCB does not meet our reasonable needs criteria, it is open to local communities to explore this option with BT or KCOM. Any such arrangements would fall outside the universal service obligations.
- 3.91 We recognise the concerns raised about our criteria-based approach making it more difficult to remove certain PCBs. However, we have a duty under the Order to ensure that PCBs are provided to meet the reasonable needs of end-users, and our criteria are designed to identify those last at site PCBs which are required to meet that need. That said,

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<sup>110</sup> See the analysis set out earlier in footnote 104. Our analysis shows that some local authorities have not vetoed any proposals for removal, while others veto a large number. BT’s data also indicates that around 82 objections from local authorities gave no reason for the objection, and at least 95 were based on solely on reasons related to the appearance of a traditional red kiosk. BT’s response to Q9 of our formal information request dated 28 May 2021.

<sup>111</sup> We understand that neither BT or KCOM have used this option.

<sup>112</sup> BT’s current [Adopt a kiosk](#) allows local communities to take ownership of red kiosks, but this involves the removal of the telephony equipment inside the box.

we have sympathy with the concerns about PCBs in some, particularly urban, areas being the subject of anti-social behaviour and the negative impact this can have on residents in the local area. This may become less of an issue in future as the number of PCBs is reduced (given the migration to IP). We would also not expect that, where such issues are experienced at a particular PCB, the default approach is to seek removal of that PCB. We would expect relevant public bodies, and where relevant the police, to give consideration to other means of preventing this (for example, cameras in the vicinity or changes to the kiosk type) before seeking to remove the PCB.

- 3.92 We recognise, however, that some PCBs may be the subject of criminal behaviour. In these cases, where the police makes a specific request for removal with evidence of serious and/or persistent criminal behaviour at the PCB, and that request is supported by the local authority, then we would be unlikely to consider it an administrative priority to enforce compliance of the universal service conditions should that PCB be removed.<sup>113</sup> As discussed below (see paragraph 3.141), we have also made clear under our usage criterion that where there is evidence of calls from a PCB being associated with illegal activity, this can be disregarded when assessing whether the PCB has made 52 or more calls in a year (given that such usage would not count as reasonable user need).
- 3.93 We remain of the view that replacing the local veto with a set of criteria to assess reasonable user needs prior to the removal of a last at a site PCB is the most appropriate and proportionate way to achieve our policy objectives. We acknowledge that we have received comments raising concerns about either too many, or too few, PCBs being removed but, overall, we consider our approach strikes an appropriate balance. In particular the criteria will ensure that PCBs that are still needed are retained to provide a safety net for those who rely on them, whilst also ensuring that PCBs that are not needed can be removed through a transparent and consistent process.
- 3.94 We note that some respondents have suggested that our criteria need to be strengthened in order to ensure that more PCBs are protected. We discuss each of our criteria below (paragraphs 3.103-3.160), including our response to the stakeholder comments we have received on each specific criterion, and some of the additional criteria stakeholders suggested.

## Defining PCBs subject to the removals process

### Stakeholder comments

- 3.95 BT said that it was concerned that the term 'Protected PCBs' may cause a misunderstanding that such PCBs are automatically protected from closure, whereas they would only be protected where they meet the removal criteria. To avoid this confusion, it proposed that they were defined as 'last at a site PCBs' instead.

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<sup>113</sup> We consider this approach is consistent with our duties under section 3(4)(j) of the CA 2003 which state that we must have regard, in performing our duties, to the desirability of preventing crime and disorder.

- 3.96 Shropshire Council raised concerns that the definition of a last at a site PCB did not account for other potential local factors such as geography and access to facilities. It also argued that the removals process should apply even where there was another PCB within the locality, so that local factors at a specific PCB can be factored in (e.g. if it is near transport links).
- 3.97 NWECC suggested that our approach needed to take account of the density of PCBs in any given area (noting that London's West End has a high density of PCBs), on the basis that this would enable greater scope for repurposing or removal in areas such as the West End which already had a high number of PCBs.
- 3.98 BT welcomed that our proposals to amend the definition of a PCB would mean its Street Hubs could now be categorized as a PCB. It noted, however, that all its existing Street Hubs had been installed in either new locations, or areas where a previous PCB had been removed (following appropriate consultation). It said that capturing existing Street Hubs under the new obligations would restrict its ability to change or remove the service in future and BT considered it would be unjustified and disproportionate if these commercially operated Street Hubs were now subject to USO regulations.

### Our response

- 3.99 We recognise BT's concerns around the potential confusion that our proposed 'Protected PCB' definition might cause and have therefore decided to change this definition to 'last at a site'. This makes it clearer that the criteria and consultation process are required to be applied to last at a site PCBs and avoids the implication that all last at a site PCBs will be protected from removal.
- 3.100 We consider that our definition of a 'site' remains appropriate, and it sufficiently takes account of local geography given that it is based on a 400m walking distance from the PCB (as opposed to distance as the crow flies, which would not account for factors such as rivers or railways). We remain of the view that BT and KCOM should not be required to consult on removal of PCBs that are not the last at a site. If there is another PCB in the local area, then this should be sufficient to meet the reasonable needs of users. We also note that BT would have an incentive to retain those PCBs which have higher usage (e.g. because they are located near a transport hub) because such PCBs are more likely to be profitable.
- 3.101 We consider that we have appropriately factored in the density of PCBs in a particular area by requiring that our removal criteria (and the consultation process) only apply to PCBs that are the last at a site. Other PCBs can be removed without consultation. We therefore expect BT only to retain and upgrade those last at a site PCBs which meet our criteria, and it will have limited incentive to maintain other PCBs in an area. We expect that, particularly in urban areas, a greater number of PCBs will be able to be removed where they are not meeting any user need.
- 3.102 We recognise BT's concerns that its existing Street Hubs were installed on a commercial basis and without any expectation that they would be subject to regulation under its

universal service obligations (given that as currently defined, Street Hubs cannot be classified as PCBs). As discussed earlier, our amendments to the definition of the services provided from PCBs means that BT can now use its Street Hubs as a means to fulfil its universal service obligations. We consider, however, that it would be inappropriate for that to mean all BT's existing Street Hubs are automatically captured by the universal service conditions, noting that they were not installed for this purpose. We have therefore amended the PCB definition in the conditions to make clear that it is only those Street Hubs (or similar devices) that are installed either to replace an existing 'traditional' PCB, or in a new location following an assessment of a request from a relevant public body,<sup>114</sup> that will be captured under our universal service conditions.<sup>115</sup> This means that BT can still use its Street Hubs to fulfil its PCB obligations where appropriate (and these will be covered by the relevant requirements relating to the removal process and reporting on these PCBs), but it has flexibility to continue separately operating existing Street Hubs on a commercial basis without undue regulatory burden.

## Removal criteria - Mobile coverage

### November proposals

- 3.103 In November we proposed that this criterion should protect any PCBs in areas without coverage from all UK MNOs. We considered there to be a reasonable need for users to have access to a PCB in an area with poor mobile coverage and the evidence from the use of the local veto showed that mobile coverage was frequently referenced as a key issue for relevant public bodies.<sup>116</sup>
- 3.104 We noted that BT's existing criterion focused on protecting those PCBs in areas with no mobile coverage (i.e. total 'not-spots'), on the basis that areas with coverage from at least one MNO will still be able to make emergency calls (because of roaming arrangements in place for such calls). Whilst we agreed that emergency calls are a priority, we considered that users may also have a reasonable need to make other types of calls, including to a helpline or to family/friends and a PCB might be the only option if the user's mobile provider does not have coverage in a particular area.
- 3.105 We considered that having a clear, robust and consistent approach to how mobile signals at a PCB site are measured was important – in particular to provide transparency to relevant public bodies of the evidence used to support any PCB removal, and that a proper assessment of mobile coverage had been carried out. We proposed in draft guidance that BT and KCOM should assess mobile coverage at a PCB site by undertaking a number of on-

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<sup>114</sup> We discuss the process by which new PCBs may be installed following a request from a relevant public body in paragraphs 3.189-3.204 below.

<sup>115</sup> Specifically, we have introduced new definitions of a 'Traditional PCB' and an 'Outgoing-only PCB'. See the schedules to Annex 1.

<sup>116</sup> BT's data (in response to our formal information request dated 9 July 2020) indicates that more than 265 objections from local authorities were based on there being no mobile coverage in the area.

site checks within a 50m radius of the PCB to ensure it is possible to make one minute voice calls without interruption.

### Stakeholder comments

- 3.106 Most respondents agreed with our proposed mobile coverage criterion.<sup>117</sup> The CCP was strongly in favour of retaining PCBs where mobile signal is inadequate, noting its consumer research had highlighted a reliance on PCBs in some areas with poor mobile coverage. Luccombe Parish Council said that without any mobile coverage, access to a PCB was more important, particularly in emergency situations. East Ayrshire Council was concerned that, even with coverage from all four national MNOs, there could still be a chance of weak mobile signal and that in these instances a PCB could be invaluable.
- 3.107 The Highland Council noted that community consultations on proposed PCB removals had regularly highlighted concern around unreliable mobile signal and it therefore welcomed the requirement that BT must begin the removal process by providing evidence of site-testing of mobile signal on all four networks. The CCP was keen to understand how BT and KCOM measured mobile coverage for their PCBs and suggested that this data should be publicly available.
- 3.108 Shropshire Council said that BT should approach local authorities for an up-to-date picture of mobile phone coverage within the radius of the relevant PCB as they would know about the connectivity issues in the area. It also requested that Ofcom conducts independent visits to measure mobile coverage, explaining that it would provide an objective counterpoint to the views of commercial operators.
- 3.109 BT, however, argued that it was disproportionate to require signal from all national MNOs and said coverage from at least one MNO was sufficient to consider a last at a site PCB for removal (in line with its existing criterion focusing on mobile not-spots). It said that people living in partial coverage areas were likely to select an MNO with local coverage, and as such they did not have a reasonable need for a PCB. It also argued that people visiting an area with partial mobile coverage were able to check coverage in advance and it was not proportionate to incur the costs of PCBs solely for people visiting an area – it noted it could mean that a PCB that had never made a call could not be removed if only three of the four MNOs were present in the area.
- 3.110 BT said that our proposed approach of requiring on site testing was also disproportionate. It noted it would require the person responsible needing four mobile devices and making four one-minute calls at multiple locations for each PCB site tested. It estimated this would cost around £400,000<sup>118</sup> to review the coverage across its whole PCB estate and that the data collected would need constant refreshing due to frequent changes to mobile networks, adding further significant costs. BT suggested that it should be able to use

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<sup>118</sup> BT subsequently provided updated estimates for these costs, noting it had underestimated the costs involved but also recognising that it would not need to test its whole PCB estate, given that some PCBs would meet the other criteria. Its revised estimates included set up costs of around £170,000 and a cost of around £300 per site to check mobile coverage. Email (and attachment) from BT to Ofcom dated 13 April 2022.

Ofcom's mobile coverage checker to determine whether a site has adequate mobile coverage. It noted that the threshold for 'good' coverage in this tool was agreed with Ofcom and industry, and argued that using this source would provide objectivity and predictability to the process. It said the on-site testing process should only be required when it is challenged by local authorities as part of the consultation process.

### Our response

- 3.111 We remain of the view that having coverage from all national MNOs is necessary under this criterion, and we note that this was supported by several respondents who highlighted the increased reliance on PCBs in areas with poor mobile coverage.
- 3.112 While we note BT's arguments, we consider that where there is coverage from some but not all national MNOs there would still be a reasonable user need to make calls other than to emergency service numbers, such as to helplines, family or friends. We do not consider it reasonable to expect that users can always plan ahead or find alternative means of making calls when visiting an area. We recognise that this may mean that it is possible that a PCB in an area with coverage from three MNOs but which had made no calls would be retained. However, given that one of the objectives of the USO is to provide a safety net, particularly in remote and rural areas, we consider it is proportionate to require coverage from all four MNOs before a PCB is removed. We also note that, as the implementation of the Shared Rural Network proceeds,<sup>119</sup> there will be improvements to mobile coverage which is likely to reduce the number of PCBs that do not have coverage from all MNOs.
- 3.113 In relation to the method for measuring mobile coverage, some respondents highlighted the importance of on-site testing, whereas BT argued that it should be able to rely on our mobile coverage checker tool unless challenged by relevant public bodies. The information used for our mobile coverage checker is based on predictions from each of the four MNOs – whilst it has a high degree of accuracy, in practice predictions can vary from the coverage that may be actually experienced on the ground as a result of local factors (especially terrain).<sup>120</sup> We therefore consider that on-site testing has an important role to play, given we want to ensure that good mobile coverage is actually available in practice in the area surrounding the PCB. That said, we recognise that, where there is a high degree of reliability that a particular PCB site has good mobile coverage from all four MNOs, it may not be proportionate to expect BT to carry out an on-site measurement for every last at a site PCB potentially being removed. Our checker includes predictions for where both indoor and outdoor coverage is expected to be available, based on information provided by the mobile operators, and thresholds applied to indicate a good level of coverage across a 100x100m pixel. The threshold for indoor coverage requires an additional 10 dB of signal strength, which would also equate to a greater reliability of coverage outdoors.

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<sup>119</sup> See footnote 70 above.

<sup>120</sup> Further information about the way in which data is collected for our mobile coverage checker is available in the FAQs here: [About Checker \(ofcom.org.uk\)](https://www.ofcom.gov.uk/about-checker/)

- 3.114 We have therefore updated our guidance to make clear that BT and KCOM only need to carry out on-site testing where our mobile coverage tool indicates that the PCB site does not have good indoor coverage from all four MNOs or where the relevant public body has evidence that on-site testing should be carried out as part of responding to a consultation on that PCB's removal (if such testing has not been carried out prior to that consultation).<sup>121</sup> We expect that this will still mean that BT will need to carry out on-site testing, prior to any consultation process, for at least 2,700 of its last at a site PCBs.<sup>122</sup> The majority of these sites are in rural areas, which is consistent with concerns highlighted by stakeholders that coverage can often be less reliable in such areas and supports our view that it is important to retain on-site testing in these areas prior to consultation.
- 3.115 We have clarified in our guidance that we expect BT and KCOM to share details of any mobile testing measurements they have carried out, or point to the relevant information they have relied on in our coverage checker, as part of the notice sent to relevant public bodies at the start of the consultation process.<sup>123</sup> We also expect this notice to make clear that if relevant public bodies have their own evidence that all four MNOs do not have coverage, they can request an on-site test to be carried out (if it has not been done already).

## Removal criteria - accident or suicide hotspot

### November proposals

- 3.116 In our November consultation we recognised the importance of protecting PCBs in areas where there is a high incidence of accidents or suicides in order to ensure there is always an available option for making calls, particularly to emergency services or relevant helplines.
- 3.117 In assessing whether a PCB meets this criterion, we said we expected BT and KCOM to take account of any information they might already hold in relation to this issue (which could include information that may have been previously provided by relevant public bodies when proposing to remove a last at a site PCB) as well as the types of calls made from a PCB, such as if there is evidence of calls made to emergency numbers or relevant helpline numbers.

### Stakeholder responses

- 3.118 Helplines Partnership and BT proposed that we should change the terminology 'suicide hotspots' to 'high frequency suicide locations' as they were concerned that referring to 'hotspot' potentially glamourised these locations and risked vulnerable people being drawn to them.

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<sup>121</sup> We have also provided further guidance in Annex 2 that BT and KCOM must ensure that at least five such tests are undertaken for each network operator, and the test is met at least 90% of the time.

<sup>122</sup> Ofcom analysis based on BT's response to our formal information request dated 9 July 2020, and Ofcom's Connected Nations data.

<sup>123</sup> As part of fulfilling their obligations under Condition 3.6(b).

- 3.119 Most respondents agreed that it is important that PCBs are retained where they are more likely to be needed to make calls in relation to accidents or suicides, although some respondents raised concerns about how this criterion would be measured and applied in practice. The NSPCC and East Ayrshire Council pointed out that even detailed evidence on past accidents or suicides cannot predict with complete accuracy where future incidents will occur. Shropshire Council said BT and KCOM should be required to seek guidance from local authorities on evidence related to this criterion, noting that they already had evidence bases about local needs.
- 3.120 BT said it was committed to keeping PCBs in high frequency suicide locations, and noted it speaks regularly to Helplines Partnership to understand which PCBs are important to them. It said it would continue to work with them to define and keep services in these locations.
- 3.121 BT disagreed, however, with including high frequency accident locations as part of this criterion. Whilst it noted that relevant public bodies had sometimes claimed that a PCB was in a high frequency accident location, there was extremely limited information available about what constitutes such a location. In terms of road accidents, it noted that only five calls were made from PCBs to the AA and RAC in the 12 months to November 2021, and also pointed to the availability of emergency roadside telephones on most major roads. It said most people will use their mobile phone in the event of an accident in any case. BT said that if high frequency accident locations were to remain part of this criterion, it should be objectively defined using readily available data with a clear threshold to ensure certainty in the process.

### Our response

- 3.122 We have amended our conditions and guidance to refer to this criterion as ‘high frequency accident or suicide locations’ given the concerns raised about the previous wording.
- 3.123 We note that respondents generally agree that PCBs are important in areas with a high frequency of accidents or suicide. We recognise the points raised by the NSPCC and East Ayrshire Council about the difficulty of predicting accurately where exactly PCBs will be needed in future. However, we do not consider it would be proportionate to require a large number of PCBs to be retained just in case there may be an incident at some point in the future in that area, particularly given that most people are likely to have access to a mobile. Where, however, there is evidence that a location has a history of relevant incidents, then we consider there is a reasonable need to retain that PCB, given the safety of life implications and our objective to protect PCBs that provide a safety net for vulnerable users.
- 3.124 We welcome BT’s work with Helplines Partnership to identify areas that have a high frequency of suicides. Through this process, we understand that BT and Helplines Partnership will work together to identify PCBs in high-frequency suicide locations and ensure these are protected. This is part of a wider set of commitments made between BT



and Helplines Partnership in May 2022, including to identify helpline use under the ‘other reasonable need’ criterion discussed below.<sup>124</sup>

- 3.125 We acknowledge BT’s comments on the difficulty of identifying reliable data on accidents. However, as set out above, we remain of the view that it is important to retain this as part of the criterion, given the potential safety of life implications and potential need for a PCB as a safety net. Whilst we recognise that BT has requested a more objective definition under this criterion, we do not consider this would be appropriate given the difficulty of trying to set a definitive list of types, or frequency, of accidents that may be relevant in a particular case. We consider that an assessment should be made in the round, taking account of the relevant evidence that is available. The types of evidence we consider would be relevant here include the number of (genuine) emergency calls made from a PCB and any publicly available data on accidents (in particular where such data shows a clear pattern of serious accidents in close proximity of the PCB).<sup>125</sup> We have clarified in our guidance that this is the type of evidence we expect BT and KCOM should take into account in assessing this criterion.
- 3.126 We also recognise that the consultation process and representations from relevant public bodies will play a particularly important role in assessing whether this criterion has been met. BT and KCOM will be required to take account of any evidence received from relevant public bodies under this criterion, and we expect that such bodies may be more likely to have access to relevant local evidence relating to the frequency of accidents (or suicides) in a particular area. We would expect any representations from relevant public bodies to include relevant evidence in support of this criterion, in order for BT and KCOM to take it into account in their assessment.

## Removal criteria - usage

### November proposals

- 3.127 In our November consultation, we said that we would expect to see a certain level of usage for a last at a site PCB to demonstrate that there was an ongoing user need for it. We noted that BT’s existing criteria required at least 120 calls of any type to have been made from a PCB within 12 months in order for it to be protected from removal.
- 3.128 We recognised that identifying an appropriate level of usage was necessarily a question of judgement, and in making that judgement we took account of the following:
- that there are likely to be only a small group of users who are reliant on PCBs to make calls;
  - PCB use is likely to be transitory, with some users needing to use them only in limited circumstances (e.g. when they do not have access to their mobile); and

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<sup>124</sup> BT Slide pack ‘Protecting payphones for helplines; BT agreement with HLP’, May 2022.

<sup>125</sup> For example, [Crash Map](#) is a tool that uses Department for Transport data to show road accidents in Great Britain.

- that some PCBs are in rural areas which may have significantly fewer residents in the surrounding area, and therefore will have less frequent usage.
- 3.129 Based on those factors, we provisionally indicated that a criterion of 52 calls (of any type) over 12 months was likely to indicate reasonable user need (i.e. around one call a week). We noted that our analysis of calls from BT's last at a site PCBs indicated that around 41% made 52 calls or more in 2019/20.<sup>126</sup> In comparison only around 28% of BT's last at site PCBs made 120 calls more in the same period.
- 3.130 We noted that, based on 2019/20 usage data, our proposed 52 calls criterion would allow BT to remove more than 50% of its last at a site PCBs (unless they meet one of the other proposed criteria). We considered this was consistent with our objective of allowing the removal of those PCBs which are no longer in regular use. We also recognised, however, that migration to IP would involve an investment by BT in upgrading its PCBs, and noted that with ongoing declines in usage, there was a question of whether setting the usage criterion at a higher level (for example at 120 calls over 12 months) might be appropriate in light of those costs.

### Stakeholder responses

- 3.131 BT agreed that a usage criterion was necessary, noting that it was practical to expect that a reasonable need for a PCB exists where it is in regular use. It noted, however, that the anonymity provided by PCBs can sometimes attract anti-social behaviour, resulting in hoax and nuisance calls. It highlighted that whilst approximately one third of all 999 calls made from PCBs are identified as hoax by the emergency operator, it believed the total number of hoax calls was much higher because many silent calls will still be passed to the emergency services. It noted it was also aware of hoax/nuisance calls to helplines and other services. It therefore emphasized that in defining the usage criterion, Ofcom must consider the level of illegitimate usage.
- 3.132 KCOM, however, raised concerns about our proposed usage criterion. It noted that setting the criterion at 52 calls would effectively mean that all its last at a site PCBs could not be removed. It highlighted that this would not change even if the call threshold was increased to over 100 calls. It was particularly concerned that this would mean that its PCBs could not be removed, irrespective of the extent of anti-social behaviour associated with their use, and the distress it causes to local residents. It suggested Ofcom should therefore consider removing the usage criterion altogether.
- 3.133 Helplines Partnership said it was not right to judge a PCB's future based on the amount of calls it makes without consideration of the purpose of those calls. Should a PCB make just a few calls, but those were to helplines such as Samaritans, Childline or domestic abuse services, it argued that PCB had then demonstrated the value and importance it has whereas under Ofcom's proposals it could be closed. It noted that it was working with BT

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<sup>126</sup> Ofcom analysis based on BT's response to our formal information requests dated 9 July 2020 and 28 May 2021. For KCOM, approximately 98% of all its PCBs made 52 calls or more during the same period. (KCOM's response to our formal information requests dated 9 July 2020).

to establish a threshold of calls to helplines to ensure those PCBs were protected from removal. NVEC also argued that rather than focus on the overall number of calls, this criterion should focus on the nature of the calls. It said this would help ensure that those PCBs that are providing an essential service were protected.

- 3.134 In terms of the threshold of 52 calls, BT argued that one call per week did not, on its own, justify a reasonable need for a PCB to remain in place, given the costs involved in upgrading PCBs to IP. It argued it was not proportionate to upgrade a PCB which was rarely used, and which would be used even less in future. It estimated that a PCB needed to make 494 calls a year to be cost-neutral and said this was a useful number to consider when assessing the appropriate usage criteria. BT said it therefore preferred Ofcom's alternative suggestion of 120 calls, noting that this would at least account for 25% cost-recovery.
- 3.135 BT also noted that if the usage criterion was set too low, a person who was passionately opposed to the removal of a local PCB could 'game' the system simply by making a few short calls occasionally. To reduce this risk, it argued it was necessary to assess the distribution of a PCB's usage such that peaks in usage, particularly around the time of a removal proposal, could be discounted.
- 3.136 The Highland Council welcomed the proposed 52 calls, noting that it considered BT's current 120 calls (alongside the requirement for 500 households within 1km of the PCB) failed to recognise dispersed deprivation and vulnerable communities. It considered that 52 calls was more appropriate in recognizing lower population densities across many rural and remote areas (some of which may be subject to higher levels of social deprivation and therefore lower levels of mobile phone ownership).
- 3.137 Other respondents raised concerns, however, that our proposed threshold of 52 calls per year was too high and would not protect enough PCBs in their areas. Shropshire Council said that our proposed threshold could lead to the closure of almost all its remaining PCBs as they had a significant number with only one or two calls a year (or none at all). Scottish Borders Council also noted that very few PCBs in its area made over 52 calls, but noted this was not surprising given the low population density. Scottish Borders Council, David Mundell MP and John Lamont MP proposed that a threshold of eight calls per year would be more appropriate.
- 3.138 Shropshire Council said that any usage criterion should not in itself be used to justify removal and that usage figures from the next nearest PCBs should also be considered to provide a more holistic view of ongoing local need. It also noted that using a specific usage figure did not take account of those PCBs which were not working, making it impossible to estimate actual usage. The CCP also raised concerns that existing information about the use of a PCB would not account for those citizens who were unable to use a PCB due to poor accessibility.

### Our response

- 3.139 We consider that including usage as a criterion is important as it provides a clear indication of whether there is an ongoing user need for that PCB. Given the availability of mobile as

an alternative for most consumers, we expect most PCB usage to reflect those users who are unable to use a mobile for whatever reason (whether through poor signal, lack of access or because they are in vulnerable circumstances).

- 3.140 We recognise that PCBs can be susceptible to hoax or nuisance calls, and agree that such activity should not count as reasonable user need. We have therefore added to our guidance to make clear that where there is evidence of hoax or nuisance calls (for example if the emergency services or helplines have identified such calls to their services), this should not count towards the usage criterion.
- 3.141 In response to KCOM's concerns, we have already outlined in paragraph 3.92 above how we would be unlikely to consider it an administrative priority to enforce compliance of the universal service condition should a PCB be removed because of serious and/or persistent criminal behaviour at that PCB (when requested by the police and supported by the relevant public body). Clearly if a PCB is being used to make calls for illegal purposes, such usage would not count as reasonable need. We have therefore also made clear in our guidance that where there are indications that any usage is linked to criminal activity then this should not be incorporated into the assessment of that PCB's usage under this criterion.
- 3.142 We agree with Helplines Partnership and NVEC that some types of calls made from PCBs, such as to helpline numbers or the emergency services, can demonstrate a reasonable user need for a particular PCB more clearly than some other types of calls. We have already outlined above how the number of emergency calls, or calls to relevant helplines, should be taken into account by BT and KCOM when assessing whether a PCB is likely to be in a high frequency accident or suicide location. We also discuss further below under the fourth criterion ('other evidence of reasonable user need'), how we expect other types of helpline calls to be taken into account (see paragraph 3.158).
- 3.143 On the appropriate number of calls under this criterion, we have carefully considered stakeholder comments on this point. We note BT's arguments about using 120 calls, however, we are concerned that using this higher threshold does not take into account that in more rural and remote areas, usage may be lower given they are less densely populated. One of our policy objectives is to ensure that PCBs continue to be provided to meet the reasonable needs of users in rural and remote areas in particular. We also note that the PCBs that made between 52 and 119 calls in 2019/20 accounted for a material proportion (11%) of the total outgoing call minutes made from last at a site PCBs.<sup>127</sup> In addition, PCB call volumes continue to decline significantly each year – we would therefore expect the number of PCBs making 52 or more calls to decline over the next few years, enabling BT to remove more PCBs that are no longer needed and save costs.
- 3.144 We note that some local authorities and MPs argued the threshold should be set instead at eight calls, highlighting that some PCBs in their areas make very few, if any, calls. However, we do not consider that such a low threshold is appropriate for demonstrating reasonable

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<sup>127</sup> Specifically, 1,205 PCBs made between 52 and 119 calls in 2019/20. Ofcom analysis of BT's 2019/20 PCB call data.

<sup>128</sup> These are defined as Helplines Partnership members in the voluntary sector (for whom BT applies PAC relief).

user need given it represents less than one call a month, and we do not consider it would be proportionate to keep open PCBs that are so rarely used. We consider instead that the equivalent of one call a week strikes an appropriate balance between ensuring reasonable needs are met and ensuring that the costs of maintaining the PCB estate are proportionate. It is also worth noting that PCBs in rural areas that have poor mobile coverage will remain protected from removal even if they make less than 52 calls. On BT's point about the distribution of usage, and the risk of users 'gaming' the criterion, whilst we consider the likelihood of this risk is very low, our conditions make clear that BT only needs to take into account calls made in the 12 month period prior to the start of the consultation process (i.e. the point at which BT notifies the relevant public body of the PCB's proposed removal). This means a user could not seek to save a PCB it knew BT was considering removing by making a number of calls from that PCB after the consultation process had started.

- 3.145 We recognise Shropshire Council's point about considering usage figures from the next nearest PCBs. PCBs that are not last at a site can be removed regardless of how much they are being used, but generally we might expect any usage of such PCBs to transfer to the next nearest PCB within a site (which may then become the last at a site). However, if BT or KCOM seek to remove one or more PCBs within a site at the same time (or within a short space of time), BT or KCOM may not get a complete picture of previous usage at that site if they only take account of usage at one of those PCBs. We therefore have made clear in our guidance that, where another PCB (or PCBs) within a site have been removed within the 12 month period being used to assess usage of a last at a site PCB, BT and KCOM should also include the usage of those other PCB(s) when assessing whether the last at a site PCB made less than 52 calls (see paragraph A2.11 of the guidance).
- 3.146 We also recognise Shropshire Council and the CCP's concerns that where a PCB has not been working, or has been inaccessible, then the usage of that PCB will have been impacted and there is a risk that it will not meet the usage criterion despite there being demand. We have therefore clarified in our guidance (see paragraph A2.10) that if a PCB was out of working order or inaccessible during the 12 month period prior to a consultation on its removal, we would expect BT and KCOM to make a reasonable projection, on a pro-rata basis, of the additional calls that would have been made during the period it was out of service or inaccessible (including taking account of the PCB usage and distribution of calls made in previous years where relevant). We consider this will help ensure an accurate representation of the number of calls being made from a PCB when assessing whether the usage criterion has been met.

## **Removal criteria – exceptional circumstances/other evidence of reasonable user need and other stakeholder suggestions**

### **November proposals**

- 3.147 We recognised in November that there may be other circumstances, not directly captured under the other three criteria, which may still be relevant in assessing whether a last at a site PCB should be kept in place. We noted we wanted to ensure that relevant public

bodies had an opportunity to provide input about local factors relevant to the need to maintain a PCB, and for BT and KCOM to be required to take account of such factors in assessing whether there was still a reasonable need for a PCB.

- 3.148 We outlined some examples, in our proposed guidance, of circumstances that might be relevant under this criterion. This included issues relating to the geographic location of the PCB (e.g. if it is in a coastal location and this has an impact on the resilience of mobile coverage in the area) or the types of calls made from a PCB (e.g. evidence of calls to helpline numbers or the emergency services).

### Stakeholder responses

- 3.149 Some respondents said that this criterion was vague and needed to be more tightly framed to set out what scenarios it covers. Other respondents raised additional factors they considered were necessary to include as additional criteria, raising concerns that the four criteria we had set out did not go far enough.
- 3.150 Shropshire Council, for example, asked for more examples of relevant circumstances under this criterion and the Highland Council said it should not be left to the discretion or interpretation of BT to define what is exceptional.
- 3.151 BT said that the inclusion of this subjective criterion would remove the certainty and clarity that Ofcom was aiming for, and potentially re-introduced the local veto by the back door. It noted that the examples we had given were known in advance (e.g. geographic location and types of calls) and it therefore believed that these could not be described as 'exceptional'. In its view, for circumstances to be counted as exceptional they must be (a) outside of BT's control; (b) beyond reasonable expectations and (c) implicitly linked to a need for telephony universal service. It noted that the geographic location of a PCB was already taken into account under the mobile coverage criterion, and the high frequency accident and suicides criterion. BT therefore argued that the exceptional circumstances criterion should be removed altogether, or at a minimum that any subjectivity should be removed to ensure it truly relates to circumstances which are exceptional.
- 3.152 In terms of helpline calls, BT recognised that even a small number of calls could be of significant social value and that it had agreed to work with Helplines Partnership and its members on a voluntary process to ensure that PCBs making frequent calls to helplines, or meeting a significant social need are protected.
- 3.153 Scottish Borders Council was concerned that our proposed approach did not acknowledge that PCBs play a vital part of the resilience, emergency and community safety infrastructure of local communities. It therefore suggested a number of additional criteria it believed should be adopted, which it said were more appropriate for PCBs in a rural context. These included: the proximity of the PCB to arterial A-roads, active leisure routes, and high-risk coastal or fresh water locations, use for more than one emergency call, and whether the PCB was the last in a particular area (e.g. a village). John Lamont MP and David Mundell MP also noted their support of these additional criterion.

- 3.154 Shropshire Council also noted concerns that the existing four criteria did not sufficiently recognise the extent and variance of local social needs, whether in rural areas, areas of high social housing or access to facilities and services (such as healthcare, transport etc). It said that ongoing social need should therefore be included as an additional criterion.
- 3.155 NSPCC suggested that the proximity to schools or other institutions of relevance to children should be a required criterion.

### Our response

- 3.156 We note stakeholder concerns about the potentially subjective nature of this criterion. We consider it is important, however, to retain it given there may be other relevant factors, not captured by the other three criteria, that point towards a reasonable user need that justifies retaining a particular PCB. Retaining this criterion does not mean relevant public bodies can veto any removal decisions. We would expect any submissions from relevant public bodies under this criterion to be supported by relevant evidence, specifically relating to local factors that show a reasonable end-user need for a particular PCB. Where such submissions are received, BT and KCOM must then give proper consideration to them and set out how they have taken account of that evidence in making a decision on whether to remove the PCB.
- 3.157 In response to stakeholder comments, we have made some clarifications to our guidance on this criterion and we have also amended its description in the conditions so that it now makes clear it only applies where a reasonable need for the PCB has been appropriately evidenced (recognising that relevant evidence here may not necessarily be 'exceptional'). As part of assessing this criterion we recognise that any evidence must be explicitly linked to the need for the telephony service provided by the PCB (as opposed to wider factors such as the appearance of the kiosk) and we have made this clear in the guidance. We also agree with BT that any specific issues related to the geographic location of the PCB either in terms of mobile coverage or the likelihood of frequent accidents should be captured under the other relevant criteria. We have therefore removed these examples from the guidance.
- 3.158 We agree that calls to helplines from a PCB are likely to show a clear user need, particularly for vulnerable users. We have made clear in our guidance that we would expect BT and KCOM to take account of calls to helplines under this criterion. We welcome the agreement that BT and Helplines Partnership have reached on a voluntary basis, which sets out that if BT intends to consult on removing a last at a site PCB which has had 12 or more calls to Helplines Partnership members<sup>128</sup> in the past year, it will engage with Helplines Partnership before proceeding to consult with relevant public bodies.<sup>129</sup> Helplines Partnership will be able to object to the removal if it can be shown that there is any ongoing, active case where that PCB is needed to continue the communication; or the PCB

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<sup>128</sup> These are defined as Helplines Partnership members in the voluntary sector (for whom BT applies PAC relief).

<sup>129</sup> BT Slide pack 'Protecting payphones for helplines; BT agreement with HLP', May 2022. BT has also agreed to allow Helplines Partnership to provide evidence relating to any PCB which is of use to its member helplines and to seek its protection from future removal.

is in an area which typically attracts a significant volume of helpline calls (e.g. significant economic deprivation or close to a children's centre).

- 3.159 We also recognise that PCBs can sometimes play an important role in the event of a local emergency, for example flooding. If there is evidence that a PCB has been relied upon in such circumstances, we would expect BT and KCOM to take account of this evidence under this criterion, and we have included this as an example in our guidance.
- 3.160 We have carefully considered the other criteria suggested by respondents, however we believe that our existing criteria already sufficiently capture many of the specific issues raised. For example, there may be a need to retain a PCB near an A-road, fresh water or active travel routes where there is evidence of a high frequency of accidents in those areas (which would be captured under the high frequency accident or suicide location criterion). We would also expect any ongoing social need, including from vulnerable customers, to be captured by existing usage and the use of certain helplines. Similarly on NSPCC's suggestion of including the proximity of locations relevant to children, we consider that assessing calls to Childline or other child-related helplines from PCBs (set out in our updated guidance) is a more appropriate way to ensure that PCBs needed by children are retained.

## Consultation and review process with relevant public bodies

### November proposals

- 3.161 We proposed in November that, where BT and KCOM consider that a last at a site PCB does not meet any of the removal criteria and they wish to remove it, they must then go through a consultation process giving the relevant public body at least 60 days to respond. Whilst we noted that the current process allowed for a consultation period of 90 days, we considered that a shorter period was appropriate given that under our proposed new process BT and KCOM will already have undertaken work to assess the need for that PCB against our removal criteria (in particular, on mobile coverage and the calls made from that PCB).
- 3.162 We proposed to remove the 2006 PCB Guidance which sets out a detailed consultation process for relevant public bodies to undertake. Instead, we proposed that where public bodies want to engage with local communities about a proposed PCB removal, they would have flexibility to undertake that process through whatever mechanism they considered appropriate.
- 3.163 We also noted the importance of ensuring relevant public bodies had an opportunity to challenge a PCB removal decision by BT and KCOM – for example where the public body has concerns either about the process by which the consultation was run, or about the merits of the decision taken. We therefore proposed to introduce a new requirement for BT and KCOM to undertake a review of any decision to remove a last at a site PCB when appropriately challenged by a relevant public body within 21 days of the original decision being confirmed. The proposed conditions also specified that BT and KCOM would not be able to remove a last at a site PCB until this review period had passed, and any review decision (where relevant) had been taken.



## Stakeholder responses

- 3.164 Shropshire Council agreed with our proposal to reduce the consultation period to 60 days. However, Monymusk Council and the Highland Council disagreed. The Highland Council argued that this shorter timeframe would reduce the opportunity for elected members to give sufficient scrutiny to the proposals. Monymusk Council noted that in previous consultations with BT it had needed the entire 90 day period to respond adequately and consult the community.
- 3.165 The Highland Council also noted that coordinating the consultation process and compiling responses is resource-intensive for local authorities and requires a significant amount of time. In particular it highlighted that this involved sifting through extensive public comment to identify relevant evidence. It argued it would be proportionate for BT to be responsible for collating and processing local views rather than relying on relevant public bodies to do this.
- 3.166 The NSPCC noted concerns that it may be difficult for groups who wish to respond to the consultation to organize themselves, and given that consultations would happen at a local level, there was a risk that some communities would be more engaged than others. If local authorities do not engage, it noted that relevant local factors could be missed as part of the consultation process and that this could reduce children's access to vital services. It suggested that consultations should include representatives with an interest in children's issues as a recommended consultee and should be void if they do not receive a minimum level of engagement from the community.
- 3.167 BT said it would be helpful to clearly define the minimum information that it was required to provide to the relevant public body as part of the consultation process, to ensure that both parties have clear expectations and to prevent objections based on limited data. BT agreed that it was important to provide relevant public bodies with an opportunity to challenge decisions, and said the proposed review mechanism was a reasonable way to ensure this.
- 3.168 The Highland Council, however, said it was deeply concerned by the proposal that review of decisions to remove a PCB be left entirely at the discretion of a BT Board appointee. It said it was necessary to also introduce a public body right of onward appeal to Ofcom on substantive decisions and procedural compliance following the initial review period, saying that this would require explicit identification of a suitable Ofcom point of contact for local authorities and with transparency on how such appeals would be dealt with. It also said that further detail needed to be provided on how Ofcom would act on regulatory breaches and our approach to exercising the proposed new power to compel re-instatement of PCBs which have been erroneously or inappropriately removed.
- 3.169 The Highland Council also argued that the new process should explicitly stipulate that where, following consultation, it was found that a PCB should be protected under the criteria, there should be no subsequent attempt to remove it until such time as there is a material change in circumstances (such as the introduction of a new mobile signal tower to the area). Alternatively, it said that a further removal consultation could only be carried

out once a six year period had passed (which was consistent with the period for which we were proposing BT should retain relevant compliance records). It noted that in its experience, BT had posed an unreasonable burden on relevant public bodies by repeatedly consulting on the same PCB, even where a case for protecting it had already been demonstrated.

### Our response

- 3.170 We have carefully considered stakeholder comments on this point and have decided that, given the concerns raised, we will revert to a 90 day consultation period. Whilst we note that, unlike under the current process, BT and KCOM will be required to include details of how they have assessed that the PCB meets the removal criteria when notifying relevant public bodies at the start of the consultation process, we want to ensure that relevant public bodies have sufficient time in which to assess and respond to this evidence, as well as gathering their own evidence as necessary. This is particularly important given that we are removing the local veto. Following the consultation period, there is a further 21 day period in which relevant public bodies may request a formal review of the removal decision. This gives relevant public bodies an additional period in which to make any further representations or provide supplementary evidence.<sup>130</sup>
- 3.171 We also understand from BT that, under the current process, it has been willing to grant extensions to the consultation period in order to allow relevant public bodies further time to collate their response (for example if a relevant meeting of elected officials that might be used to gather views falls outside of the consultation window). It is therefore open to relevant public bodies to request an extension if needed, and we would expect BT and KCOM to act reasonably in considering such requests.
- 3.172 Previously our conditions also specified that, once BT and KCOM have made a decision following this review process, they would have to publish that decision on their websites within seven days of the decision being made. Whilst we did not receive any specific comments on this point, we have decided to make some minor modifications to the conditions to clarify that the decision must be published at the same time that it is notified to the relevant public body. This means BT and KCOM have flexibility on how long it takes them to notify and publish that decision, but it remains the case they are unable to remove a PCB until this decision has been published and notified and the 21 day period for requesting a review has expired. This change will therefore not impact the role of relevant public bodies in the process.
- 3.173 We note the concerns from the Highland Council about the burden involved in collating responses from interested parties. The changes we are making mean that, unlike under the current process, there is now greater flexibility for relevant public bodies to decide what, if any, mechanism and format they use to respond to consultations by BT and KCOM. It is

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<sup>130</sup> BT and KCOM are only required to consider a review request from a relevant public body where that body has made submissions during the consultation period (condition 3.12). BT and KCOM must consider whether there is 'reasonable justification' for proceeding with a review (condition 3.11(b)).

therefore open to relevant public bodies to merely pass on any relevant local input they have received to a consultation. BT and KCOM will be required to take due account of any representations they receive from the relevant public body.

- 3.174 We recognise NSPCC's concerns that some relevant public bodies may be more engaged than others. We have, however, designed the criteria to ensure that, regardless of local engagement, BT and KCOM have to assess whether there is likely to be a reasonable user need for a PCB ahead of consultation. We therefore do not consider it would be appropriate, and risks potentially creating unnecessary delays and uncertainty to the process, to require a minimum level of engagement in the consultation process. We also note that, as discussed above, the process BT has agreed with Helplines Partnership will mean that relevant helpline member organisations will be consulted on proposed PCB removals and can flag where a particular PCB may be more likely to be important for children to access.
- 3.175 In terms of the information required to be included in the written notice to relevant public bodies at the start of the consultation process, the conditions require BT and KCOM to include all relevant evidence and other information in relation to the removal criteria.<sup>131</sup> We have clarified in our guidance that we would expect this to include at least information on:
- i) mobile coverage at the PCB, in particular:
    - the results of any on-site mobile coverage testing; or
    - information about coverage reported in Ofcom's mobile coverage checker and the option for relevant public bodies to make a request (supported by evidence) for an on-site coverage measurement to be carried out.
  - ii) how the usage of the PCB has been assessed, including the number of calls made from the PCB in the previous 12 months, a breakdown of the number of emergency and helpline calls made, how usage of any other PCBs within the site have been accounted for where relevant, and any adjustments made if the PCB was out of service/inaccessible for any time during the 12 month period;
  - iii) any other relevant evidence or information BT or KCOM has relied on in assessing whether the PCB is likely to meet the removal criteria (for example information on accidents or suicides at the PCB location, or the results of any engagement it has undertaken with Helplines Partnership regarding that PCB prior to consultation).
- 3.176 The Highland Council also suggested that, in addition to the review process, there should be a process for a further 'onward appeal' to Ofcom. We do not consider that this is necessary – we have designed the consultation and review process to ensure that the obligations on BT and KCOM are robust and at each stage there is a requirement for transparency in their decision making, including the need for them to set out written reasoning for how they have taken account of any submissions from the relevant public body. When undertaking a review in response to a challenge from relevant public bodies,

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<sup>131</sup> See, in particular, condition 3.6(b).

BT and KCOM must also ensure that the decision is made by a senior level employee (e.g. someone with Board delegated authority) who is unconnected with the original decision. We would therefore expect this person to independently review all the relevant submissions and evidence to make a decision on whether there is a justifiable case to retain a PCB under our criteria.

- 3.177 Where relevant public bodies, or other PCB users, have concerns about BT or KCOM's compliance with the universal service conditions, they may raise a complaint with Ofcom.<sup>132</sup> Where there is evidence that BT or KCOM are not complying with any of their universal service obligations, we can take enforcement action as necessary, in accordance with our enforcement guidelines.<sup>133</sup> As noted in those guidelines, we make decisions about whether to pursue enforcement action on a case-by-case basis, having regard to our statutory duties and weighing up the likely benefits of any action against the resources it would require.<sup>134</sup> In the event that we were to open an investigation and find that BT or KCOM had failed to meet their obligations, we would be able to direct BT or KCOM to reinstate a PCB (see condition 3.15 in the schedules to Annex 1).

## Other general comments

### Stakeholder comments

- 3.178 Shropshire Council raised concerns that our proposals would discriminate against certain groups of people with protected characteristics under the Equality Act (e.g. it pointed to young and older people in rural areas, as well as people with disabilities). It said that other vulnerable people, such as low-income households and households in rural areas, could also be discriminated against if PCBs were removed from their areas. It therefore disagreed with our equality impact assessment and said we were not meeting our policy objective to ensure PCBs continue to be provided to meet the reasonable needs of end-users. The CCP noted that many PCBs are inaccessible to some users and said that BT and KCOM should be required to ensure all PCBs are accessible – it welcomed that BT's new Street Hubs were accessible.
- 3.179 The NSPCC noted that 3.7% of total calls made to its Childline helpline in the year to April 2020 were made from PCBs and was concerned that the significant reduction in PCBs resulting from our proposals could reduce the availability of its helpline to vulnerable children. It noted that BT and KCOM would save money by removing loss-making PCBs and, given that financial incentive, they should be required to consider their role in ensuring people can stay connected – for example it suggested they could reserve some of their revenue to advertise that Childline offers free chat services.

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<sup>132</sup> We have published [Guidance on submitting a complaint to Ofcom](#).

<sup>133</sup> Ofcom, [Enforcement Guidelines for regulatory investigations](#), June 2017. We are currently consulting on amendments to these guidelines: [Ofcom's approach to enforcement – revising the Regulatory Enforcement Guidelines](#).

<sup>134</sup> Paragraph 2.5 of our current Enforcement Guidelines sets out the matters we would generally consider in deciding whether to pursue enforcement action.

- 3.180 CCUK and Simwood raised concerns that Ofcom appeared to be relying on data from BT to estimate the number of its last at a site PCBs that was based only on ‘rough checks’, despite the data being provided as part of a formal request.<sup>135</sup> They suggested further analysis should be undertaken to test whether there were any material errors arising from this.

### Our response

- 3.181 We disagree with Shropshire Council that we are not meeting our policy objective to ensure PCBs are provided to meet the reasonable needs of end-users and that our approach discriminates against certain groups that meet the protected characteristics under the Equality Act. In carrying out our equality impact assessment for our proposals, we noted that the objective of the Order is to ensure that all consumers, irrespective of their protected characteristics, or the part of the UK they live in, can benefit from the telephony universal service where there is a reasonable need. Our assessment of reasonable needs has shown that most consumers no longer use PCBs, but there is still a minority of users for whom PCBs provide an essential service, and this is likely to include certain vulnerable groups (such as older consumers who are less likely to have a mobile phone, or vulnerable people accessing helplines). In setting up the new process to determine which PCBs should be protected from removal we have taken the needs of such consumers into account. Our criteria-based approach ensures that PCBs will continue to be provided where they are important to these groups – in particular where there is ongoing usage of a PCB (which demonstrates its importance to certain users) then it will be retained. We have also specifically referenced in our guidance that calls to helplines such as Childline or NHS 111 should be considered as part of the fourth criterion (‘other evidence of reasonable need’) criterion, noting that vulnerable customers may be reliant on PCBs to make such calls.
- 3.182 On the CCP’s point, we agree that it is important that PCBs are accessible to all users. We do not consider, however, it is appropriate for us to set accessibility requirements as part of this review. The Equality Act 2010 imposes a duty on service providers (which includes providers of PCBs) to make reasonable adjustments to allow people with disabilities to use the services offered by the provider.<sup>136</sup> BT and KCOM are therefore required to comply with the Equality Act in the future provision of PCBs. We also note that, as welcomed by the CCP, BT’s Street Hubs are more accessible. The changes we are making to the definition of PCBs (see, for example, paragraph 3.61 above) will enable greater flexibility for BT to replace its traditional PCBs with these newer Street Hubs (subject to planning permission).
- 3.183 We recognise that, as highlighted by the NSPCC, calls to Childline from a PCB provide important evidence of ongoing user need. We consider we have accounted for this potential need through our guidance on the ‘other evidence of reasonable need’ criterion

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<sup>135</sup> In particular they referenced footnote 58 of our November consultation.

<sup>136</sup> This duty to make reasonable adjustments specifically requires that where a physical feature puts a person with disabilities at a substantial disadvantage in relation to their ability to access relevant services in comparison with persons who are not disabled, the service provider must take such steps as are reasonable to avoid the disadvantage.

which makes reference to calls to helplines. Whilst we recognise that BT and KCOM will financially benefit from removing PCBs, requiring them to use any cost savings for other purposes would go beyond the requirements of the USO Order.

3.184 In relation to CCUK and Simwood's concerns around the data used to estimate the number of last at a site PCBs, we are satisfied that the estimate received from BT is sufficient for the purposes of our analysis (which was to ensure we had a reasonable estimate of last at a site PCBs to assess the impact of our proposals). We would expect BT to undertake a suitable on-site measurement of the specific distances when assessing which PCBs it plans to remove (or consult on removing). But we consider it would have been disproportionate to require this of BT for the purpose of providing an overall estimate in response to our formal information request.

## Summary of our decisions

3.185 We have decided to proceed with implementing the proposals set out in our November consultation. In particular our changes to the removals process will now require:

- BT and KCOM to assess, in respect of a last at a site PCB, whether:
  - it does not have coverage from all four mobile network providers;
  - it is sited at a high frequency accident or suicide location;
  - it has made 52 or more calls over the past 12 months; or
  - there is other evidence of a reasonable need for the PCB.
- If the last at a site PCB meets any of these criteria, BT and KCOM cannot remove the PCB.
- If BT and KCOM consider that a last at a site PCB is not protected by the criteria and they wish to remove that PCB, they must consult with the relevant public body for a period of 90 days by:
  - providing a written notice to the relevant public body setting out all the relevant evidence as against the criteria; and
  - publishing a prominent notice on the PCB with details of the consultation process.
- Following the conclusion of the consultation process, BT or KCOM must notify the relevant public body of its decision, setting out written reasons for the decision, including how it has taken account of any submissions received. This decision must be published on BT or KCOM's website at the same time as being notified to the public body.
- The relevant public body has 21 days in which to request that BT or KCOM undertake a review of any removal decision. BT and KCOM must assess the merits of such requests and, when undertaking a review, must ensure it is carried out by a senior person who was not connected with the initial decision, and the outcome must be notified to the relevant public body as well as published on BT or KCOM's website.
- BT and KCOM can only remove a last at a site PCB after either: (a) the period for requesting a review has expired; or (b) where a review has been requested, once they have published the outcome of that review.

- 3.186 The changes to the universal service conditions and relevant definitions are set out in the schedules to Annex 1. Our new guidance on the use of the removal criteria is set out in Annex 2 (see paragraphs A2.4- A2.13). We have made changes to this guidance following our November consultation to clarify the application of the removal criteria, as well as the information that must be included in the notice to relevant public bodies when consulting on a last at a site PCB removal.
- 3.187 Our changes will benefit PCB users by ensuring that those PCBs that are reasonably needed are retained, and especially by ensuring that the remaining PCBs provide a safety net for vulnerable customers or those in rural areas who might otherwise risk not being able to make the calls they need to. The changes are likely to increase the number of PCBs that BT and KCOM can remove compared to the current process. Based on BT's 2019/20 usage data and our Connected Nations data on mobile coverage, we estimate that around 5,000 PCBs will not meet our removal criteria and therefore will continue to be protected.<sup>137</sup> We consider this is consistent with our policy objective to update and streamline the current conditions in light of the decline in PCB usage, and ensure that only PCBs that are required to meet reasonable user needs are retained.
- 3.188 In terms of the costs of these changes, we note that both BT and KCOM will incur some administrative and set-up costs in updating their existing processes for consulting on PCB removals, including ensuring they have the necessary procedures in place to measure mobile coverage and handle review requests from relevant public bodies. BT will also incur costs from migrating its remaining PCB estate to function on IP after PSTN switch-off in 2025.<sup>138</sup> Our changes mean, however, that because BT can remove more PCBs, it will incur lower migration to IP costs compared to if the existing process was retained.<sup>139</sup> Overall we estimate that, if BT has to retain around 5,000 PCBs, it will incur approximately £1.8m-2.3m in migration to IP costs. Overall, we consider these costs are proportionate and appropriate in light of our policy objectives, and the requirement to have PCBs in place to meet the requirements of the Order.

## Requests for new PCBs

### Our November proposals

- 3.189 In the November consultation we noted that the current PCB Direction requires BT and KCOM to take account of a number of different factors when considering requests for new

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<sup>137</sup> Given the ongoing decline in PCB call volumes, and the likelihood of further improvements in mobile coverage, we expect that by the time BT and KCOM come to make their assessments against our criteria, more PCBs will meet the criteria for removal than is suggested by the 2019/20 data used for this illustration.

<sup>138</sup> KCOM will not yet incur these migration costs given it plans to continue to use copper delivery for its PCBs for the moment.

<sup>139</sup> BT has estimated that, without changes to the current process, its costs for migrating its PCB estate to IP would be between £3.7m and £4.2m. This was based on assumption of migrating around 11k PCBs to IP, a fixed initial development cost of £305k and a per PCB cost of approximately £300-400. BT response to our formal information request dated 9 July 2020.

PCBs, including the size of the local community, the quality of housing in the area, and the distance from any existing PCBs.

- 3.190 We considered that, given the ongoing decline in the use of PCBs, the circumstances in which a new PCB is likely to be necessary to meet end user needs is extremely limited, and the current requirements therefore needed updating.
- 3.191 We proposed to revoke the requirements in the current PCB Direction and to amend the wording in the relevant universal service condition to specify how BT and KCOM should assess new PCB requests.
- 3.192 We proposed that, where BT and KCOM received a request for a new PCB, they must assess whether there is a reasonable user need for the proposed new PCB. In making that assessment we said they must act reasonably, taking particular account of whether there is mobile coverage from all UK-wide mobile network operators in the proposed site and/or whether it is a known high frequency accident or suicide location.

## Stakeholder responses

- 3.193 Several respondents (KCOM, East Ayrshire Council, Shropshire Council, Monymusk Community Council, Strachur Community Council and three individuals) said that they agreed with our proposal. KCOM commented that it had not received any requests for the installation of new PCBs in the last five years and that given the declining use of PCBs and its urban footprint, it did not expect to receive future requests.
- 3.194 BT, however, said it was concerned that our current proposals were vague and could lead to the installation, at significant cost, of PCBs which are not needed and hardly ever used. It said the reality was that PCB usage is still declining rapidly, and the cost of installing a new PCB could be up to £20,000 in areas which needed a new power line. It argued that in order to justify such a large expense, there needed to be a very clear demonstration of reasonable need.
- 3.195 BT also noted that the Town and Country Planning Act (General Permitted Development) (England) Order was amended in 2019 to exclude the installation of a public call box from what are known as 'permitted development rights'.<sup>140</sup> It said this meant that in England, planning permission would be needed for the installation of a new PCB even if an agreed reasonable need existed. BT therefore proposed that Ofcom should restrict requests for new PCBs to relevant public bodies (who it noted could accept representation from local citizens), on the basis that this would limit any conflict between Ofcom guidelines and planning regulations. It also said that any requestor should provide assurance that a reasonable need for a PCB would continue for an extended period of time (e.g. ten years) after its installation. It suggested that relevant public bodies should act as a guarantor to cover the cost of a PCB and its subsequent removal if it fails to meet the criteria for reasonable need in the ten years after its installation.

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<sup>140</sup> Town & Country Planning Act, General Permitted Development Order, Schedule 2, Part 16, Class A, paragraph A.1(10).



- 3.196 An individual respondent also suggested that there should be a means for sponsoring or co-funding a new PCB where it has been reasonably requested, with any cost share proportionate to the requesting party. They also suggested that if a request for installation were turned down, there should be a right of appeal.
- 3.197 Helplines Partnership said it would like to see greater powers given to communities to introduce PCBs where they considered they were needed. It said that cost sharing with parish and town councils, charities and community groups could result in more PCBs being installed.
- 3.198 Scottish Borders Council said that requests for new PCBs should be based on its suggested criteria, with exceptions being made on the basis of community requirements and needs. It said that councils should also have a say. Its suggested criteria were:
- the quality of mobile phone coverage;
  - proximity to main arterial road routes or walking/cycling/horseriding routes;
  - necessary for making 999, 101 and 111 calls;
  - proximity to coastal or freshwater locations that are considered to be of high risk;
  - expected use of eight or more calls/year; and
  - adds to the security of town centres, residential areas and/or villages.

## Our response and decision

- 3.199 We agree with BT that it would be appropriate for the planning permission requirements for new PCBs to be taken into account. We consider that limiting new PCB requests to relevant public bodies will ensure that any such requirements can be taken into account and have amended the conditions to make clear that requests for new installations can only be made by relevant public bodies.
- 3.200 We note BT's concerns that our proposed approach could lead to the installation of unnecessary PCBs, at significant costs. The obligation on BT (and KCOM) makes clear that we would expect them to undertake an assessment of whether there is a reasonable need for a proposed new PCB before deciding whether to grant any request (and incur the relevant costs). Whilst we have set specific criteria for assessing whether a last at a site PCB can be removed, we do not consider that setting similar criteria for potential new PCB installations is appropriate or proportionate. We noted earlier how PCB usage is declining significantly each year, as more and more people rely on their mobile phones.<sup>141</sup> Whilst there is still some demonstrable ongoing user need in certain circumstances (which helps to identify the PCBs which should be protected from removal), we also note that most consumers no longer use PCBs.<sup>142</sup> Given that, we consider that there would need to be significant evidence of user need to justify the costs of installing and maintaining a new PCB.

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<sup>141</sup> See paragraph 2.11.

<sup>142</sup> As noted above, BT's survey evidence found that only 8% of respondents said that they had used a PCB in the last year. Populus, June 2020. [A review of the UK public's perceptions and use of payphones](#), Q25. The research was conducted prior to the Covid-19 pandemic.

- 3.201 Any assessment of the need for a new installation should be made in the round, taking account of the overall evidence of user need in a particular area. As we have identified that these are relevant factors relating to consumer need, BT and KCOM should take account of evidence relating to whether the new PCB would be in an area without good mobile coverage, and/or which is in an area with a high frequency of accident or suicides. This does not mean however, that we consider that, for example, it would be appropriate or proportionate to require BT and KCOM to install a new PCB in every area with no mobile coverage, as there will also be other relevant factors to consider and each request must be considered on a case by case basis. Given that only a minority of users are still reliant on PCBs, we consider the circumstances in which a new PCB is likely to be necessary to meet end user needs is very limited.
- 3.202 We do not consider it is appropriate to require relevant public bodies to act as a guarantor to any costs involved with a new PCB installation. The financial burden on BT and KCOM in meeting their obligations under the universal service conditions should be assessed in the round, and there is an established mechanism within the Act for assessing whether any costs represent an unfair burden on BT and KCOM.<sup>143</sup> That said, it is open to local community groups to discuss options for cost sharing with BT or KCOM.
- 3.203 Given the very limited circumstances in which a new PCB is likely to be necessary to meet end-user needs (and noting that the number of new requests in recent years has been extremely limited),<sup>144</sup> we do not consider it proportionate to impose a requirement that if a request for installation is turned down, there should be a right of appeal. If there was evidence that BT or KCOM were not complying with the requirement to assess new PCB requests as set out above, we could take enforcement action as necessary in accordance with our enforcement guidelines.
- 3.204 Whilst we note the additional criterion suggested by Scottish Borders Council any requirements around the provision of PCBs must be limited to reasonable user need (in line with the Order). It is not practical to assess likely usage of a new PCB in advance, but as noted above, we have specified in the conditions that BT and KCOM do need to take particular account of evidence concerning whether the requested new PCB would be located in an area that: (a) does not have coverage from all UK-wide mobile network operators; and/or (b) is in an area with a known high frequency of accidents or suicides. We consider that highlighting these specific factors alone is justifiable and proportionate given the limited circumstances in which a new PCB is likely to be necessary.

## Legal tests

- 3.205 In section 2 we outline the tests in section 47 and 49 of the Act which must be met before we can modify universal service conditions and modify or withdraw associated directions. We consider that our changes to the PCB universal service conditions (Conditions 3.1-3.16,

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<sup>143</sup> Section 71 of the Act.

<sup>144</sup> We noted in paragraph 3.147 of the November consultation that BT had received only two requests relation to the installation of new PCBs in the last five years.

and 3.18-3.19 set out in the schedules to Annex 1), and associated guidance (in Annex 2), as well as our withdrawal of the PCB Direction, meet these tests set out in the Act. In particular we consider our changes are:

- **objectively justifiable:** as, for the reasons set out in this section, they are consistent with our duties and policy objectives in that they modernise and streamline the PCB requirements on BT and KCOM and they align with our assessment of ongoing user needs in relation to PCBs;
- **not unduly discriminatory:** as we are applying the same obligations only to BT and KCOM as the designated telephony universal service providers within their respective areas;
- **proportionate:** as, for the reasons set out in this section, we have sought to ensure that the requirements align with the reasonable needs of users in relation to PCBs, in accordance with the obligations of the Order and taking into account the costs involved; and
- **transparent:** as we have explained our reasoning in this section and the changes have been set out clearly in the updated conditions and guidance. The changes also seek to ensure that BT and KCOM have clear and workable criteria and processes to assess PCB removals, providing certainty to BT and KCOM, as well as relevant public bodies about these processes. The guidance further explains how we expect BT and KCOM to discharge their obligations under the conditions.

## 4. Resilience of public call boxes

- 4.1 In this section we set out our decision to introduce a new requirement on BT and KCOM to make sure PCBs that are likely to be needed in the event of a power cut have a resilience solution (e.g. battery back-up) so they can still be used to make emergency calls for at least three hours.
- 4.2 We first summarise our proposals on the resilience of PCBs in the November consultation, before setting out our assessment of stakeholder comments and our overall decision.

### Our November proposals

- 4.3 In our November consultation we noted that after migration to all-IP networks, BT's PCBs (whether they rely on fixed or mobile networks) will require a power supply. This means that in a power cut, they will require a resilience solution in order to continue working.<sup>145</sup>
- 4.4 Under general condition A3, communications providers are required to take all necessary measures to ensure:
- the fullest possible availability of their networks, and the telephony services they provide, in the event of catastrophic network breakdown or in cases of force majeure; and
  - uninterrupted access to emergency organisations.
- 4.5 In 2018 we published guidance on how providers can meet these obligations as domestic landlines move to IP-based services.<sup>146</sup> The guidance says that residential customers assessed as being at risk due to dependence on their landline<sup>147</sup> should be provided with a solution that enables them to be able to make calls to the emergency services for at least one hour in the event of a power cut.
- 4.6 We noted that there was currently no similar requirement or guidance on BT and KCOM to ensure the resilience of their PCBs. We considered there would be a reasonable need for PCB users to be able to continue to make emergency calls from PCBs in power cuts. We noted in particular that, in the absence of any other communication option, reliance on PCBs to make emergency calls in the event of a power cut may become crucial, and the likelihood of needing to make such calls may become more pronounced in such circumstances.
- 4.7 We therefore proposed to introduce a new universal service condition requiring BT and KCOM to take all necessary measures to ensure the fullest possible availability of telephony services from their PCBs in the event of a catastrophic network breakdown or

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<sup>145</sup> We highlighted that KCOM intends to continue to use copper for the end connection of its PCBs (which is feasible given its compact and urban footprint), so the resilience of PCBs is not an issue for KCOM, at least for the time being.

<sup>146</sup> Ofcom, [Protecting access to emergency organisations when there is a power cut at the customer's premises](#), October 2018.

<sup>147</sup> 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.

cases of force majeure, as well as ensuring uninterrupted access to emergency calls from PCBs. We noted this would ensure the requirements in general condition A3 were replicated for BT and KCOM's PCBs, so that PCB users will have similar protections in the event of a power cut.

- 4.8 We also proposed new guidance setting out our expectation that, in meeting this condition, BT and KCOM should have a resilience solution in place to ensure that emergency calls can be made from PCBs for a minimum of three hours in the event of a power cut. We considered that three hours represented an appropriate minimum level of protection when considered against the practicalities and costs of any solution (in particular, the limitations of the available service chamber size in a PCB).
- 4.9 We said we expected the duration of the protection being offered to be made clear on the PCB itself. We also indicated that BT and KCOM should consider taking additional measures to ensure PCBs in areas with long-duration power outages continue to allow uninterrupted access for more than three hours where necessary.
- 4.10 We noted that BT had estimated it would cost around £300 per PCB to install battery back-up units and approximately £60 per unit per year to maintain the solution.<sup>148</sup> We also noted that extended power cuts were relatively infrequent, and, in some cases, there may be alternatives available to make emergency calls in the event of a long power outage. We therefore said it would be disproportionate to expect all PCBs to have a resilience solution and we proposed that BT and KCOM should only need to install a resilience solution to a sub-set of their PCBs. We consulted on two options:
- only those PCBs which are more likely to be relied upon in the event of a power cut (e.g. those without mobile coverage); or
  - at least one PCB at a site.
- 4.11 We noted that under the first option we would expect BT and KCOM to take steps to identify PCBs which were most likely to be relied upon in the event of a power cut, and to install a resilience solution in those PCBs. In addition to areas with no mobile coverage, we said this could include areas with a history of issues leading to frequent power outages (e.g. flooding), areas with a high frequency of accidents, or areas which are more rural and less built-up and which therefore have fewer alternative communication options. These factors were incorporated into our proposed guidance in Annex 6 of the November consultation.
- 4.12 We provisionally considered that the first option was the most appropriate approach, given it would target the resilience solution at those PCBs which are most likely to be needed in the event of a power cut, and avoids the unnecessary costs of installing a solution in PCBs in areas where other access to emergency services is available.

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<sup>148</sup> BT's response to our formal information request dated 28 May 2021.

## Assessment of stakeholder responses

- 4.13 We received a range of responses to our November proposals on resilience. Whilst several respondents supported our approach, there were also some specific issues raised.
- 4.14 Below we set out the points raised, and our assessment of them, in relation to each of the following areas:
- overall approach to the resilience obligation for PCBs;
  - length of the PCB resilience solution; and
  - PCBs that need a resilience solution.

## Overall approach to the resilience obligation

### Stakeholder comments

- 4.15 Several respondents (BT, East Ayrshire, Strachur Community Council and two individuals) said that they agreed that PCBs should be resilient where necessary.
- 4.16 Monymusk Community Council said that battery back-up needed to be resilient to voltage fluctuations and low temperatures, and that generator back up may be more reliable than batteries. It also said that battery maintenance was required.
- 4.17 The CCP said that BT and KCOM should be alerted when a resilient power supply or local back-up battery was deployed so that priority could be given to arranging continued service.
- 4.18 An individual respondent said that restricting the obligation to emergency calls was proportionate. Two other individual respondents referred to the need to make calls that were important but were not emergency calls, for example the need to report a power cut.
- 4.19 BT agreed that, at a minimum, a resilient PCB should enable emergency calls during a power cut. It said it was likely that its resilient PCBs would allow any free call to be made (which would include NHS 111, the UK power cut reporting service, 105, and free helplines as well as emergency calls), as back-up power might not be sufficient to operate the PCB's payment mechanism.

### Our response

- 4.20 We agree that battery back-up for PCBs will need to be technically robust and resilient to conditions such as low temperatures. Under our new resilience obligation, BT and KCOM will be required to ensure appropriate resilience of their PCBs, and this would include proper maintenance of that solution.
- 4.21 We also agree that having a mechanism for BT and KCOM to be informed when a battery back-up unit is deployed could be helpful in certain circumstances (e.g. in the event of a longer power cut where additional measures may be necessary). We understand that such a mechanism may be technically possible, depending on the design of the resilience solution that is chosen for PCBs. As noted in the November consultation, we do not

consider it appropriate to prescribe the type of solution BT or KCOM should adopt in meeting its resilience obligations. However, as set out in our new guidance, we expect BT and KCOM to take additional measures to ensure PCBs in areas with long-duration power outages continue to allow access to calls for more than three hours where necessary, for example arranging for new batteries to be installed at the site, or enabling mobile generator power back-up (see paragraph A2.20 of the guidance).

- 4.22 We noted in the November consultation that the implementation of resilience solutions for domestic premises in practice allowed customers to make calls to any number, not just emergency calls. This is because it can be easier, and less costly, to design a solution which does not limit the type of outgoing calls that can be made. We therefore expected the same would happen in practice for any resilience solution for PCBs. However, we note BT's response that the resilience solution for PCBs may not be able to power the payment system, which means that chargeable calls may not be possible from PCBs during a power cut. This still means that users are likely to be able to call any free of charge numbers, which would include a number of important services such as NHS 111 and the power cut reporting service on 105. We understand from BT that chargeable calls could also continue to be made using its credit card payment service (via an 080 number),<sup>149</sup> as well as making reverse charge calls.
- 4.23 We continue to consider that the resilience obligation for PCBs should be limited to emergency calls given this is consistent with our approach to ensuring the resilience of landline services and is proportionate given our policy objective to ensure that PCBs provide a safety net for users without an alternative communication method. Whilst we note that chargeable numbers will not be accessible via cash payments, we welcome BT's indication that free to call numbers and chargeable calls via its credit card payment service will still be accessible to users from resilient PCBs in the event of a power cut.

## Length of PCB resilience solution

### Stakeholder comments

- 4.24 CCUK said that Ofcom's proposal to require three hour resilience for PCBs seemed to assume that people would need two hours' travel time to reach a PCB in a power cut. CCUK argued that there was a lack of evidence for Ofcom's proposal to treat PCBs differently from landlines.
- 4.25 BT agreed with the proposed three hour period given that PCBs typically serve a community (rather than a single household). It said this seemed a reasonable compromise given the available space within PCB kiosks, and that, on average, UK customers experience power loss for between 30 and 51 minutes per year. It also noted that in the event of sustained power failures (e.g. as a result of extreme weather), BT's Emergency Response Team was able to help restore telecommunication services to affected communities and it

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<sup>149</sup> Albeit that, as noted at paragraph 3.57 above, currently this credit card payment facility is not working and BT is instead offering free calls from its PCBs that only accept credit card payments.

was always prepared to work with relevant public bodies to extend the duration of protection where possible (e.g. if there was a proven need for resilience and evidence of repeated long-duration power failures).

- 4.26 Some respondents argued that the resilience obligation needed to be longer than three hours. Helplines Partnership said it should be several days and an individual respondent said it needed to be permanent. Luccombe Parish Council called for either a longer period than three hours or a system that would allow batteries to be charged by the community, for example using cars. Monymusk Community Council noted that during Storm Arwen its village had been without power for four days.

### Our response

- 4.27 We said in the November consultation that a period of one hour's minimum resilience was unlikely to be appropriate for PCBs given that end-users will not necessarily be in the direct vicinity of a PCB when a power cut occurs. This does not mean we estimate that people would need to travel for two hours to reach a PCB. As noted by BT, a PCB is there to serve a community, rather than an individual household. As such, it is likely to have multiple users, and the battery life needs to account for this. Taking account of this likely user need, and the importance of ensuring that users without any alternative communication option are able to make emergency calls in the event of a power cut, we consider it proportionate to require longer resilience for PCBs than for domestic landlines.
- 4.28 We recognise some respondent concerns that longer resilience may be required in certain circumstances and that storms last winter led to several days of power cuts in some areas, particularly in Scotland. As noted in the November consultation, we consider that three hours represents an appropriate minimum level of protection when balanced against the practicalities and costs of any solution and the likely duration of most power cuts. In PCBs there is a particular practical limitation given the space limitations of the size of the service chamber inside the PCB. A battery lasting more than three hours would be too big to fit into the PCB and would involve significant costs as it would require completely redesigning the PCB equipment and structure.
- 4.29 In practice, a battery unit installed in a PCB may continue to allow calls to be made for longer than three hours. This is because the three-hour period represents the minimum permissible period at end of battery life, so in many circumstances, the actual duration of the battery will be longer. That said, given that there may be circumstances where power outages can last for significant periods, we have also indicated in our guidance that BT and KCOM should consider taking additional measures to ensure that PCBs in areas with long-duration power outages continue to allow uninterrupted access to emergency calls for more than three hours where necessary.<sup>150</sup> We welcome BT's confirmation that it is prepared to work with relevant public bodies to extend the duration of protection where

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<sup>150</sup> Previously the guidance referred specifically to areas with 'frequent' long-duration outages, but we have now removed the word 'frequent' to make clear that such measures might be appropriate during a long power cut in an area without a history of previous power outages.



possible, if there is a proven need for resilience and evidence of repeated long-duration power failures.

## PCBs that need a resilience solution

### Stakeholder comments

- 4.30 BT said that the PCB resilience requirement should only be focused on those locations with no mobile coverage (i.e. total not-spots). It considered that this was consistent with Ofcom's approach for landline resilience, and noted that given our existing guidance for landlines, vulnerable customers and those dependent on their landlines were already able to request resilience in their homes. BT said that the alternative option of requiring at least one resilient PCB at a site would be costly to install and maintain, as well as leading to thousands of resilient PCBs in town and city centres with good mobile coverage and very few power failures. It argued it was impractical and unreasonable to believe that someone in a city centre would spend time searching between nearby PCBs to find the resilient one during an emergency.
- 4.31 An individual respondent and Helplines Partnership also agreed that mobile signal was an important criterion in identifying the need for a resilience solution in PCBs.
- 4.32 The Highland Council, Scottish Borders Council, Monymusk Community Council, John Lamont MP and David Mundell MP and an individual respondent referred to how PCBs provide a key point of contact for emergency services, and that during power cuts and/or extreme weather mobile masts can be affected, leaving PCBs as an important back-up. Some respondents pointed to this becoming a more frequent issue with climate change, highlighting the winter storms.
- 4.33 KCOM noted that it currently had no confirmed plans to remove copper connections from its PCBs, although said this was something it would be considering as it refines its plans for IP-migration. It agreed it would be disproportionate to expect all PCBs to have a resilience solution in place, but it also considered that it was not proportionate to require KCOM to assess and identify the PCBs that were likely to be relied upon in the event of a power outage. It said KCOM's estate is in an urban environment where alternative solutions for making calls should be readily available and therefore provision of battery back-up to even a sub-set of its PCBs would result in additional costs with little or no benefit. It also highlighted that only a very low volume of emergency calls were made from its PCBs.
- 4.34 The NSPCC suggested that PCBs that met the high frequency accident/suicide location criteria or which were located near to institutions relevant to children should be eligible for a resilience solution, and Helplines Partnership suggested that helpline use should be a consideration for eligibility for a resilience solution. The CCP and an individual respondent said that rural and remote locations were more likely to have power cuts, and therefore to need resilient PCBs. Scottish Borders Council said that the same criteria it proposed for protecting PCBs from removal should also be used for identifying those PCBs that should be resilient (including proximity to A-roads, closeness to walking routes and usage).

- 4.35 Two local authorities (Shropshire Council and the Highland Council) suggested that local authorities should be involved in decisions about which PCBs should be resilient, with the Highland Council saying that local authorities should also be able to identify particular PCBs that may require additional backup generator power, due to their locations. The Highland Council said that a consultation mechanism similar to the process for PCB removals should be introduced for local authority review of proposed PCBs selected for backup power. It said this was a matter of public safety and decision-making should be informed by evidence of local circumstances.

### Our response

- 4.36 We agree with BT and other respondents that having a resilience solution for PCBs in areas where there is no mobile coverage is a priority, given that using a mobile to make emergency calls will not be possible in these areas and therefore anyone without a resilient landline could be reliant on their nearest PCB in the event of a power cut. Our new guidance therefore makes clear that we expect PCBs in mobile not spots to include a resilience solution.
- 4.37 We note the concerns raised by some respondents about the impact of last winter's storms on communications infrastructure, including mobile masts, and how PCBs can become an important back-up in such circumstances. As set out in November, as part of migration to IP, BT plans to install a mobile solution into PCBs in areas with mobile coverage which means that there is likely to be an increased reliance on mobile masts continuing to function during a power cut. Whilst we recognise the concerns raised about the resilience of mobile masts, this is a broader issue which goes beyond the scope of our consideration of the rules for PCBs in this review. We have a separate ongoing programme of work looking at the resilience of the UK's networks, and as part of that we are working closely with Government and industry on these issues, including contributing to a review of the impact of the winter storms to help us understand what lessons about industry preparedness can be learned.<sup>151</sup>
- 4.38 In addition to mobile coverage, we consider that there are also other factors that should be taken into account in deciding which PCBs require a resilience solution. As highlighted by respondents, there may be some areas which have previously experienced frequent and/or long duration power outages and such areas are more likely to need a resilience solution in their PCBs to ensure that users reliant on a PCB still have an option to make emergency calls – this may include some of the areas recently impacted by the winter storms. We have therefore kept this as a relevant factor that BT and KCOM must assess in deciding which PCBs require a resilience solution. We consider that BT should keep under review which areas may be likely to fall into this category, particularly as the Government's wider work on the resilience of power networks proceeds (e.g. if further data on areas impacted by power cuts were to become available).

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<sup>151</sup> See: [Electronic Communications Resilience & Response Group Post Incident Report - 2021/2022 Severe Storms \(2022\)](#), May 2022.

- 4.39 We agree with KCOM and BT that a resilience solution in PCBs in more densely populated towns and cities is unlikely to be proportionate and could lead to unnecessary installation costs. Such areas are less likely to experience long-duration power outages, and also there are more likely to be alternative options available for users to make emergency calls. Our guidance makes clear that a PCB that is located in a remote rural settlement is a relevant factor in assessing whether it requires a resilience solution. As noted by the CCP, such rural areas are more likely to experience power cuts and to need resilient PCBs. We also consider that PCBs in areas with a high frequency of accidents should also have a resilience solution, given the potential for accidents to lead to the need to make emergency calls and the potential safety of life implications if a PCB were not available in the event of a power outage. Whilst we note KCOM's comments that its estate is in an urban environment, prior to migrating any of its PCBs to IP, we would still expect it to undertake its own assessment against our guidance to verify that none of its PCBs meet the relevant factors we have highlighted.
- 4.40 Some stakeholders pointed to other factors they believed should be considered in assessing whether a PCB requires resilience (e.g. the high frequency of suicides and helpline use). We have carefully considered these points but in making a decision we have sought to balance the likelihood of a resilience solution being needed in a particular PCB against the costs involved in installing such a solution. We consider that the combination of the factors we have identified (no mobile coverage, areas of frequent/long duration power outages, high frequency accident areas and more remote/rural areas) will ensure that resilience solutions are targeted at those PCBs which are most likely to be needed in the event of a power cut and avoids unnecessary costs of installing a solution in PCBs in areas where other means of access to emergency services is likely to be available. We consider this approach is consistent with our policy objectives and duties with respect to the universal service conditions, in particular our objective to ensure that universal services provide a communications safety net.
- 4.41 We note that some respondents suggested that BT and KCOM should be required to formally consult relevant public bodies in decisions about which PCBs should be resilient and establish a process for this. We recognise that it may be helpful in some circumstances for BT and KCOM to seek guidance from relevant public bodies, e.g. where there is uncertainty about the extent to which PCBs in a particular area are likely to be captured by the factors highlighted in our guidance. We have therefore included a reference to this in our guidance and encourage BT and KCOM to consider this option where necessary. However, we also note that in other circumstances it will already be clear to BT and KCOM which PCBs meet the factors we have outlined (e.g. areas with no mobile coverage) and in these instances, consultation with relevant public bodies would not be necessary.

## Our decision on resilience

- 4.42 We have decided to proceed with our November proposals and have implemented condition 3.17 (see the schedules to Annex 1), under which BT and KCOM will now be required to take all necessary measures to ensure:

- the fullest possible availability of their PCBs in the event of catastrophic network breakdown or in cases of force majeure; and
  - uninterrupted access to calls to Emergency Organisations as part of the provision of the PCBs.<sup>152</sup>
- 4.43 Our new guidance (see Annex 2) sets out our expectations on BT and KCOM in complying with this obligation,<sup>153</sup> including the factors we expect them to take into account in identifying which PCBs require a resilience solution, and that any resilience solution put in place should ensure that calls to Emergency Organisations can be made from these PCBs for a minimum of three hours in the event of a power outage affecting the area.
- 4.44 The new guidance also makes clear that BT and KCOM should display a prominent notice on those PCBs which do not have a resilience solution installed which clearly indicates that the PCB will not function in the event of a power cut and, where relevant, gives directions to any PCBs located nearby that do have a resilience solution. For those PCBs which do have a resilience solution, the guidance also now clarifies that BT and KCOM should display a notice in PCBs stating the minimum length of that solution.
- 4.45 These changes will bring important benefits to users by ensuring that, after the telephone networks are migrated to function over IP, emergency calls (and potentially other types of free calls) will still be possible from some PCBs in the event of a power cut. BT has estimated that it will cost around £300 per PCB to install battery back-up units into PCBs (and approximately £60 a year to maintain the solution).<sup>154</sup> Our guidance on identifying PCBs that require a resilience solution will ensure that these costs are only incurred where there are relevant factors that demonstrate that a PCB is likely to be needed to make emergency calls in the event of a power outage. Given the potential safety of life implications, we consider that these costs are proportionate and consistent with our policy objectives.

## Legal tests

- 4.46 We consider that the new PCB resilience universal service condition (Condition 3.17 set out in the schedules to Annex 1), and associated guidance (in Annex 2, paragraphs A2.16- A2.21) meet the tests set out in section 47 of the Act. In particular we consider the new condition is:
- **objectively justifiable:** as, for the reasons set out in this section, it is consistent with our duties and policy objectives in that it furthers the interests of users who may need to make emergency calls in power cuts, and is consistent with the general condition relating to communication networks and services as a whole;

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<sup>152</sup> In the November consultation the draft condition 3.16 referred to ‘Specified Numbers’ in error. We made clear in the body of the consultation document that we intended it to refer to ‘Emergency Organisations’ specifically (see for example paragraphs 3.127-3.128 of the November consultation).

<sup>153</sup> Our draft guidance in the November consultation indicated that the resilience obligation applied to ‘Protected’ PCBs (now referred to as last at a site PCBs) in error. Condition 3.17, and our final guidance, makes clear that this applies to all PCBs, not just those that are last at a site.

<sup>154</sup> BT response to our formal information request dated 28 May 2021.

## Review of the telephony universal service obligation

- **not unduly discriminatory:** as we are applying the same obligation only to BT and KCOM as the designated telephony universal service providers within their respective areas;
- **proportionate:** as, for the reasons set out in this section, we have sought to ensure that the new obligation is consistent with our policy objectives and takes into account the potential implementation and maintenance costs; and
- **transparent:** as we have explained our reasoning in this section and the change has been set out clearly in the updated condition. The guidance further explains how we expect BT and KCOM to discharge their obligations under this condition.

## 5. Other changes to the universal service conditions

- 5.1 In this section we outline the changes we are making to BT and KCOM's other universal service conditions, following consideration of responses to our November consultation.
- 5.2 These changes include:
- i) revoking the requirement for itemised billing, because we consider the obligations on all communications providers in the general conditions are sufficient to ensure BT and KCOM's customers receive itemised bills;
  - ii) revoking BT's universal service condition on directories, as it has been found to be unlawful and the requirements of the Order are met through the general conditions on directories;
  - iii) replacing the existing quality of service conditions with an updated set of reporting requirements on BT and KCOM, including new reporting on PCB closures and maintenance; and
  - iv) making a number of other minor changes to wording and definitions in the universal service conditions to make them clearer and more transparent.
- 5.3 Below we first set out our view on why it may be appropriate to remove the requirement on BT and KCOM to support facsimile communications ('fax') under the Order (which the Government is considering amending).

### Fax

#### Our November proposals

- 5.4 We outlined that the Order currently requires designated universal service providers to meet all reasonable requests for a fixed telephony connection, and that this connection must be capable of allowing end-users to make and receive facsimile communications.<sup>155</sup> This requirement has been implemented through universal service condition A2 on BT and KCOM, which defines telephony services as including "*the ability to make and receive calls and facsimile*".<sup>156</sup>
- 5.5 We noted that one consequence of the upcoming migration of the UK's fixed network to IP will be that, due to the nature of the IP network, the timing and synchronisation that is necessary for the duration of a fax transmission cannot be guaranteed. As a result, BT had raised concerns with us about maintaining any obligation for the continued provision of fax services after networks are migrated to IP. In particular, BT explained that fax will never work for all-IP over mobile, which means that BT (and any operator of an all-IP digital

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<sup>155</sup> [See paragraph 1 of Schedule 1 to the Order](#)

<sup>156</sup> [Schedule 1 and Schedule 3 of the Broadband USO legal instrument: Universal Service Conditions for BT and KCOM](#)

network), will be effectively unable to guarantee that an analogue fax service will be conveyed across an all-IP digital network.

- 5.6 We highlighted how Ofcom would only be able to remove the reference to fax from the universal service conditions if the Order was amended (given our duty to ensure the requirements of the Order are implemented). We engaged with Government about this issue, and in September 2021, in accordance with the requirements of section 65(4) of the 2003 Act, the Minister for Digital Infrastructure wrote to us to consult us on his proposal to remove the fax obligation from the Order.<sup>157</sup>
- 5.7 We said in our November consultation that we considered that the fax obligation should be removed from the Order in light of the impact of migration to IP. We noted that not only would fax delivery no longer be guaranteed on IP networks, but that fax services are no longer widely used and there are many low-cost reliable alternatives available, including email and document management platforms. Given the limited existing use of fax services, we noted that we expected the impact of removing the obligation on BT and KCOM would be minimal, and we also noted that stakeholder engagement had already taken place to make relevant users aware of the impact of IP migration on fax services.

## Stakeholder comments

- 5.8 The majority of respondents who commented on this issue agreed with our view.<sup>158</sup> KCOM pointed to the decline of fax use in the UK, and BT and KCOM noted that the obligation was no longer appropriate in light of the impact of IP migration on these services.
- 5.9 A few respondents, however, raised some concerns. CCUK and an individual respondent suggested that fax machines were still in use, and CCUK pointed to the legal, medical and travel sectors in particular.
- 5.10 Simwood and an individual respondent pointed to the existence of the T.38 protocol which they argued could be used to support the continued provision of fax in IP networks. The individual respondent in particular argued that, instead of removing the fax requirement, the USO could be amended to require BT and KCOM to use the T.38 protocol in their networks to support the continued availability of fax services. CCUK also suggested the requirement should be retained, but making clear it did not apply to mobile.
- 5.11 Simwood and CCUK also raised concerns that that the removal of the fax obligation could have serious consequences for the provision of other devices using voiceband data, such as telecare alarms. CCUK said BT and KCOM might use the removal of the fax USO as licence to forgo any work required to make their IP networks capable of carrying voiceband data.
- 5.12 Simwood and CCUK also questioned whether the removal of fax from the USO would be compatible with international law. Both pointed to Article 81(2) of the EEC which, in their view, requires the UK to require a PSTN replacement of 'comparable quality'. CCUK argued

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<sup>157</sup> The Minister's letter was published as an Annex to our November consultation [here](#).

<sup>158</sup> BT, KCOM, East Ayrshire Council, Shopshire Council, Monymusk Community Council, Strachur Community Council and three individual respondents.

that this meant it was not open to the Secretary of State to vary the Order to remove fax.<sup>159</sup>

### Our response

- 5.13 The aim of the Order is to ensure that a minimum set of telephony services are available to people who need them (particularly those in remote or rural areas or vulnerable customers, who the market might not otherwise choose to serve), and where there would otherwise be a risk of social exclusion arising from the lack of such access which would prevent their full social and economic participation in society. Given the availability of a range of alternatives to fax, such as email and online document management platforms (many of which are free of charge), we consider it is unnecessary for the provision of fax to continue to form part of that minimum set of telephony services under the universal service obligations.
- 5.14 We are aware that there is still some limited use of fax services within the UK. After migration to IP, such services may continue to be used, however the nature of all-IP networks means that the timing and synchronisation that fax relies on for the duration of the transmission will not be guaranteed.
- 5.15 Migration to IP will offer benefits to consumers, such as clearer phone calls, and it will help ensure the UK's landline telephone services are fit for the future.<sup>160</sup> The migration process is being led by industry, but we previously carried out a joint exercise with government to identify areas of the economy that may be affected to ensure that impacted sectors have the information they need to prepare for IP migration. As part of that process, the impact on the reliability of fax services was flagged to relevant sectors where we understand fax may remain in use (e.g. the legal profession). We also note that NHS England was required to phase out fax by April 2020.<sup>161</sup>
- 5.16 We understand that the T.38 protocol could allow fax transmission to work on fixed, but not mobile, IP networks. However, even if BT and KCOM were required to use this protocol in their networks, this would still not guarantee successful end-to-end transmission of fax if other networks were involved (because there would be no similar obligation on other networks). Given this, we do not consider it would be appropriate or proportionate to require BT and KCOM to adopt this specific technical protocol.
- 5.17 We recognise that the closure of the PSTN and migration to all-IP networks will have an impact on devices that use voiceband data (such as telecare alarms). We expect providers to assess customers' needs and offer advice and assistance to customers who use telecare

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<sup>159</sup> Article 81(2) EECC states: *"The national regulatory authority shall ensure that the decommissioning or replacement process includes a transparent timetable and conditions, including an appropriate notice period for transition, and establishes the availability of alternative products of at least comparable quality providing access to the upgraded network infrastructure substituting the replaced elements if necessary to safeguard competition and the rights of end-users."*

<sup>160</sup> See: [The Future of Fixed Telephone Services, Ofcom policy positioning statement 2019](#)

<sup>161</sup> [Health and Social Care Secretary bans fax machines in NHS - GOV.UK \(www.gov.uk\)](#)



devices.<sup>162</sup> This is a very important issue, given the potential vulnerability of these consumers, but we do not consider that the removal of the fax obligation would have any impact on the steps we expect providers to take in addressing these issues.

- 5.18 In terms of the concerns raised about the requirements of Article 81(2) of the EECC, we note that this provision concerns the obligations of national regulatory authorities under European law to impose access remedies on undertakings with significant market power,<sup>163</sup> rather than to impose universal service obligations. In addition, Article 84(1) EECC, which sets out the universal service requirements, does not include a requirement for universal service providers to provide access to fax services, referring only to broadband and voice communications. Therefore, we do not consider that either of these provisions are relevant to the removal of fax services.
- 5.19 We therefore remain of the view that it would be appropriate for fax to be removed from the universal service obligations. We wrote to DCMS setting out our view, and appending a summary of the responses to our November consultation, in March 2022 (see Annex 3). DCMS has confirmed it is reviewing these responses and continuing to consider whether to amend the Order.
- 5.20 The draft conditions in our November consultation did not include the reference to ‘facsimile’ in the definition of ‘Telephony Services’. We are, however, unable to implement such a change until the Order is amended and it is therefore still included in the final conditions set out in the schedules to Annex 1.<sup>164</sup> If DCMS decides to proceed with removing fax from the Order, we will propose (via a short consultation) to amend the definition of ‘Telephony Services’ accordingly.

## Itemised billing

### Our November proposals

- 5.21 The Order specifies<sup>165</sup> that the services provided by universal service providers shall include certain billing methods and we noted we had implemented this requirement through a universal service condition on BT and KCOM which requires them to provide their customers with a basic level of itemised billing (at no extra charge).<sup>166</sup>

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<sup>162</sup> For example, we have previously made clear that communications providers should identify customers who use critical downstream services (such as a telecare device), develop appropriate communications plans and put in extra protection measures. For example, this could include delaying a customer’s migration until satisfied that their downstream service is compatible with VoIP. [The future of fixed telephone services, Ofcom 2019](#).

<sup>163</sup> In particular, section 81(2) of the EECC falls within Chapter IV, Title II (Access) of Part 1 of the EECC. NRAs obligations in respect of universal services are set out in a separate part of the EECC (Title I of Part III of the EECC).

<sup>164</sup> It is also included in the definition of Telephony Services included in the consolidated broadband conditions here: [Universal service conditions and directions \(ofcom.org.uk\)](#)

<sup>165</sup> Paragraph (5) of Schedule 1.

<sup>166</sup> Specifically, Condition 6.1 requires BT and KCOM to provide each of their customers a basic level of itemised billing, at no extra charge, and each itemised bill must show a sufficient level of detail to allow the customer to: (a) verify and control the charges they incur, and (b) to adequately monitor their usage and expenditure. Condition 6.4 requires them ensure that any calls which are free of charge, including helplines, shall not be identified in the customer’s itemised bill.

- 5.22 We also noted that general conditions C3.7 and C3.10 contained very similar requirements relating to billing, and these apply to all communications providers (not just BT and KCOM).<sup>167</sup>
- 5.23 We proposed to revoke the itemised billing universal service condition applying to BT and KCOM on the basis that obligations in the general conditions were sufficient to implement the billing requirements in the Order.

## Stakeholder comments

- 5.24 Virtually all respondents supported our proposal to revoke the itemised billing universal service condition.<sup>168</sup> BT and KCOM agreed the itemised billing obligations were already covered by the general conditions, and KCOM noted that removing the universal service condition would avoid the potential for conflict with the general conditions.
- 5.25 One individual respondent raised concerns that customers would no longer be able to get itemised bills if the universal service condition was removed. Helplines Partnership sought assurance that calls to its member helplines will continue to not be identifiable on a customer's itemised bill.

## Our response

- 5.26 All providers (including BT and KCOM) are required to provide an appropriate level of itemised billing to customers under general conditions C3.7 and C3.10. Removing the universal service condition on BT and KCOM related to itemised billing will not impact on these separate ongoing obligations under the general conditions.
- 5.27 Similarly, in response to Helplines Partnership, general condition C3.10 requires that any numbers which are designated as "free to caller" in the National Telephone Numbering Plan, which includes calls to free helplines, do not appear on itemised bills or any other records. This remains an ongoing obligation on all providers under the general conditions and it will not be impacted by the removal of the universal service condition related to itemised billing.
- 5.28 We remain of the view that the requirements in the general conditions are sufficient to ensure that customers receive an appropriate level of itemised billing (for no extra charge). We have therefore removed the itemised billing obligation from the updated universal service conditions set out in the schedules to Annex 1.

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<sup>167</sup> General condition C3.7 requires that Regulated Providers provide to each of their Subscribers, on request, and at no extra charge, access to adequate billing information to allow the Subscriber to: (a) verify and control the charges incurred by the Subscriber; and (b) adequately monitor the Subscriber's usage and expenditure and thereby exercise a reasonable degree of control over their Bills. General condition C3.10 requires that Regulated Providers ensure that calls and SMS to the emergency call numbers "999" and "112", or any of the numbers which are designated as "free to caller" in the National Telephone Numbering Plan, including calls and SMS to helplines on such numbers, are not identified in the Subscriber's itemised Bills or any other Records that Regulated Providers make available to the Subscriber.

<sup>168</sup> BT, KCOM, East Ayrshire Council, Monymusk Community Council, Scottish Borders Council, Strachur Community Council and two individuals.

## Directories

- 5.29 We noted in our November consultation that the Order requires the provision of directories, and directory enquiry services, and this had been implemented through a universal service condition on BT. Following two disputes, however, we found that this condition was unlawful because it was incompatible with the Universal Service Directive. Following an appeal, the Court of Justice of the European Union agreed and said the condition should be revoked.<sup>169</sup>
- 5.30 General condition B2<sup>170</sup> effectively fulfils the requirements of the Order in relation to directories. Therefore, we have removed the universal service condition on BT relating to directories from the updated universal service conditions set out in the schedules to Annex 1 (along with any relevant definitions, e.g. ‘Directories’, ‘Directory Enquiry Facility’ and ‘Directory Information’).

## Reporting and publication of quality of service information

### Our November proposals

- 5.31 We noted that, under Article 67(2) of the Act, the universal service conditions must include a condition requiring BT and KCOM (as designated universal service providers) to publish information about their performance in complying with the conditions that apply to them.
- 5.32 We noted that the existing universal service conditions require BT and KCOM to publish on their websites, every six months, their performance in delivering telephony universal services against certain quality of service parameters (some of which were requirements deriving from the Universal Service Directive).<sup>171</sup> We highlighted how, following the implementation of the EECC (which replaced the Universal Service Directive), we now had greater flexibility to set out the specific quality of service reporting required under the universal service conditions.
- 5.33 We considered that the existing quality of service reporting requirements in the conditions needed to be updated to reflect the other changes we were proposing to the conditions and to remove some of the requirements that were no longer relevant (particularly given the Universal Service Directive had been replaced).
- 5.34 We proposed to amend the existing conditions to remove the reporting requirements relating to response times for operator services and directory enquiries, and the number of

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<sup>169</sup> November consultation, paragraph 4.26. We did not ask a consultation question on this change. No stakeholders commented on this issue in response to our November consultation.

<sup>170</sup> GC B2 requires all communications providers to whom telephone numbers are allocated to pass on the directory information of their subscribers to other persons so as to ensure that a comprehensive directory database can be compiled from which directory products and services can be provided. It also requires directories to be updated at least once a year and provided to subscribers on request. See [General Conditions of Entitlement](#).

<sup>171</sup> The quality of service parameters include: a) supply time for initial connection; b) fault rate per access line; c) fault repair time; d) response times for operator services; e) response times for directory enquiry services; f) proportion of coin and card operator public pay telephones in working order; and g) bill correctness complaints.

bill correctness complaints. We also proposed to remove the reporting requirements relating to BT and KCOM's provision of fixed telephony lines,<sup>172</sup> noting that the telephony market is very mature and Ofcom reports on similar metrics in our Comparing Service Quality report each year.

- 5.35 We expressed our concern that only 71% of BT's PCB estate was reported to be in working order (defined by BT as being able to make a chargeable call) and noted ongoing reports of vandalised or damaged PCBs being left unrepaired for some time. Although BT reported that Covid-19 had impacted the availability of its engineers, we said that in future we expect the proportion of PCBs in working order to be much closer to 100%, particularly as BT's PCB estate is reduced further.
- 5.36 To improve transparency in how both BT and KCOM are performing in maintaining their PCB estates, we proposed to introduce additional requirements for them to report on the number of faulty or damaged PCBs (including those reported to them via complaints), the number of completed repairs, and the average time taken to repair those PCBs. We also said we would retain requirements on BT and KCOM to report on the number of PCBs that they provide and the proportion that are in working order. We proposed new guidance to make clear that we expect BT and KCOM to consider in their reporting both whether calls can be made, and whether damage to the box makes it inaccessible or unusable.
- 5.37 We also proposed to introduce new reporting requirements to deliver transparency around our proposed new removals process, including on the number of last at a site PCBs removed (including those removed following a decision to decline a review requested by a relevant public body, and those removed following such a review), and on the number of PCBs that BT and KCOM decided – after consultation – to not remove.
- 5.38 We considered that requiring this information to be published every 12 months (rather than every six) would be sufficient to ensure transparency of BT and KCOM's performance. To ensure that BT and KCOM maintain adequate records we also proposed a new condition requiring them to maintain relevant records for at least six years.

### Stakeholder comments

- 5.39 KCOM agreed with our proposals to remove existing reporting requirements that were no longer relevant. It said the maturity of the telephony market lessened the relevance of connection supply times, noting that it had near ubiquitous coverage in the Hull area and it did not anticipate future requests for telephony connection under the USO. It also highlighted that the nature of operator and directory enquiries had changed such as to render the current reporting requirements meaningless.
- 5.40 Most respondents supported our proposed new reporting requirements relating to number of PCBs reported as damaged or faulty, repair times and the number of PCBs subject to the removals process.

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<sup>172</sup> Including connection supply times, fault rates and repair times.

- 5.41 On monitoring the level of PCBs that are in working order, Shropshire Council and Helplines Partnership raised concerns about how long repairs can take to be completed. Helplines Partnership also highlighted the number of PCBs that are in disrepair and said that Ofcom should take additional steps to monitor and enforce repairs within reasonable timescales and create a requirement prioritising repairs to PCBs used to call its member helplines. The CCP highlighted the importance of ensuring PCBs were protected from vandalism and misuse, and one stakeholder suggested BT should be required to conduct weekly cleans of urban PCBs, and monthly for rural ones.
- 5.42 BT said that it prioritises faults that have been reported by members of the public; leave no connectivity; or where they pose a high risk (such as smashed glass panels). It said that it proactively visits over 60% of its PCBs twice a year (i.e. those with external power) to inspect the equipment and ensure its safety. It also said that as its PCB estate becomes more focused on people's reasonable needs in future, it will be able to better focus its resources on maintaining the remaining PCBs. BT agreed with continuing to provide serviceability data as it does currently (which it noted covered the percentage of PCBs that can make chargeable calls). It also agreed with our proposal to require reporting on the number of PCBs that have been reported as damaged or faulty (under which it noted it could include all types of damage, such as vandalism, even where such damage did not make the PCB inaccessible or unusable).
- 5.43 BT disagreed with our proposal for reporting on the number of completed repairs. It considered that this metric would be an unfair reflection of its efforts to repair PCBs (because at the point of reporting there would be a gap between reported faults and repaired faults), and it could be skewed by the timing (e.g. there are generally more open faults during the winter). Instead, BT proposed reporting the "average time taken to complete repairs to PCBs" which it said provides a good overview of its response to PCB faults and provides an incentive to respond to these issues in a timely way.
- 5.44 Respondents also commented on our proposals for reporting on the number of PCBs and the removals process. The NSPCC stated that in addition to figures on number of PCBs retained and removed, BT and KCOM should report on the number of new style PCBs (e.g. Street Hubs) installed, and additional metrics such as the number of PCBs that they intend to remove in the following year. The Highland Council welcomed the proposed duties for BT to retain relevant records for six years, while also saying that BT's proposed annual reporting to Ofcom should include detailed reasoning for individual removal decisions, to allow Ofcom to assess the validity of individual decisions.
- 5.45 BT agreed with our proposed approach to reporting on the total number of PCBs. It recognised the need for oversight of the PCB removals process, but it suggested an alternative structure for the reporting metrics, focused on the number of consultations conducted, the number of reviews, and the respective outcomes of these processes.
- 5.46 BT also agreed with our proposals to require data to be published every 12 months and to require all relevant records to be kept for a minimum of six years. KCOM noted that our proposed conditions defined the first relevant period for reporting as starting from 1 April

2022 and suggested that this would need amending if our statement was published after that date.

### Our response

- 5.47 We note KCOM agreed to the removal of the existing reporting requirements on fixed telephony provision and we received no other objections from stakeholders. We have therefore now removed these from the updated reporting conditions set out in the schedules to Annex 1.
- 5.48 We recognise respondents' concerns about repair times and numbers of PCBs in disrepair. As noted in the November consultation, we are concerned that around 30% of BT's PCB estate is currently not in working order and that there are reports of some PCBs remaining out of service for extended periods. As BT looks to rationalize its PCB estate to focus on those sites where they are needed most, we consider that it will become even more important that BT ensures proper, and timely, maintenance and repair of its PCBs and we welcome BT's acknowledgement that it will increase its focus on this area. We therefore expect to see an improvement in BT's performance in this respect and if there is evidence that it is failing to comply with its obligations we could consider enforcement action where appropriate.
- 5.49 We consider that the increased reporting we are introducing (on the number of PCBs that are reported as faulty or damaged, number of completed repairs, and the average time taken to complete repairs) will help to ensure improved transparency and oversight of BT and KCOM's approach to the repair and maintenance of their PCBs, and encourage more timely repairs. We note that BT already proactively visits its PCBs which require power every six months (in order to carry out electrical checks), and we understand that after migration to IP *all* of its PCBs will require power and therefore require the same six-monthly checks. We expect that as part of these visits, BT will undertake any necessary maintenance and cleaning.
- 5.50 BT has agreed with continuing to provide serviceability data on its PCBs as it does currently (under which it includes the percentage of PCBs able to make chargeable calls).<sup>173</sup> However, we also expect BT's reporting under this condition to include all PCBs provided in order to meet its universal service obligations, including those that do not offer chargeable calls. We have also clarified in our guidance (see paragraph A2.25) that when reporting on the number of PCBs reported as damaged or faulty, BT and KCOM should take account of both whether calls can be made from the PCB as well as whether damage to the box makes it inaccessible or unusable. This will ensure that PCBs affected by vandalism or other types of damage are also captured within the reporting on BT and KCOM's performance. We also welcome BT's confirmation that it would include all other types of damage in its reporting, i.e. even damage that may not make the PCB inaccessible or unusable.

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<sup>173</sup> BT's PCBs make an automated daily call into its management systems, which reports faults such as broken handsets or cash handling faults, as well as when the cash box is full. BT email to Ofcom dated 7 March 2022.

- 5.51 Whilst BT's comments that reporting on the number of completed repairs may be impacted by seasonal factors, and that at the point of reporting there may be a gap between reported faults and completed repairs, we remain of the view that this is an important metric to include in the reporting. It will help to improve transparency on the level of maintenance activity BT and KCOM have carried out over a particular year and how this compares to the ongoing number of PCBs not in working order and reported faults. Only capturing the average time taken to complete repairs, as BT suggests, would not give sufficient transparency on the overall level of repair activity BT and KCOM are undertaking. We consider this increased transparency is necessary in order for us to ensure that their obligations are being met and provide an understanding of how faults are being dealt with.
- 5.52 We consider that the combination of reporting on numbers of reported faults, completed repairs and average repair times is necessary to ensure sufficient transparency of BT and KCOM's approach to maintenance overall. With these reporting requirements in place, and noting that all BT's PCBs will be visited every six months after IP migration, we do not consider that any further metrics or requirements, such as requiring more frequent visits or mandating specific repair times, would be proportionate at this stage. We will keep under review how BT and KCOM are performing against these requirements.
- 5.53 NSPCC also suggested that BT should be required to report on the number of new-style PCB installations. As discussed in Section 3, we have amended our definition of PCBs in the conditions, which means that only Street Hubs which replace an existing last at a site PCB (or which are newly installed following assessment of a request from a public body) will be considered to be PCBs provided as part of the universal service obligation. The reporting requirements in the universal service conditions will therefore apply to these Street Hubs.
- 5.54 We also do not consider that it would be appropriate to require BT and KCOM to report on *future* plans for removals or relocations of PCBs. It is not clear how such reporting would be implemented in practice given that such plans may change over time (and may vary depending on whether a PCB meets our removal criteria), and therefore the reported information could end up being incorrect (and potentially misleading). In addition, the purpose of these requirements is to provide transparency in how BT and KCOM have performed in meeting their universal service obligations over a particular year (i.e. they are retrospective).
- 5.55 On the Highland Council's suggestion for the reporting to include detailed reasoning for individual removal decisions, under the new removals process BT and KCOM will now be required to publish (on their websites) written reasoning for each individual removal decision. This information will therefore already be publicly available (including to Ofcom) and it is unnecessary for it to be duplicated as part of BT and KCOM's annual reporting.<sup>174</sup>

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<sup>174</sup> At the consultation stage they must show how they considered any relevant submissions and evidence against the removal criteria, while at the review stage they must provide details of their reasoning for the independent decision on whether there are any justifiable reasons to maintain the last at a site PCB. See conditions 3.9-3.10 and 3.13 in the schedules to Annex 1.

- 5.56 We agree with BT's suggestion to include total number of consultations conducted in the reporting. This, combined with the total number of PCBs closed and retained following consultation and review processes, will provide transparency of the overall outcome of the consultation processes as a whole. Other than this, however, we have decided to largely maintain the reporting metrics we proposed in November. We consider that focusing the reporting on the outcomes of the consultation and review processes provides a more useful structure for measuring BT and KCOM's performance in meeting their obligations, and indicating whether the revised removals process is working in practice.
- 5.57 In summary, we have amended the conditions to require that, every 12 months, BT and KCOM must report on the following in relation to PCBs:
- i) the total number of PCBs provided to meet their universal service obligations (including any relevant Street Hubs);
  - ii) the number of PCBs not in working order (for clarity and consistency with the other reporting metrics, we have amended this to focus on the number of PCBs, rather than the proportion as is currently reported);
  - iii) the number of PCBs reported as faulty or damaged;
  - iv) the number of repairs completed;
  - v) the average time taken to complete repairs;
  - vi) the number of removal consultations completed;
  - vii) the number of last at a site PCBs that have been removed or relocated, including the number that were removed following a request for review from a relevant public body (which was declined) and the number removed following a review decision by BT or KCOM; and
  - viii) the number of PCBs that were subject to a consultation process, and where relevant a review decision, but which BT or KCOM decided not to remove.
- 5.58 We have also updated the conditions to make clear that BT and KCOM must report on these metrics within three months of the end of each reporting period by publishing the information on their websites and providing a copy to Ofcom. The new conditions also require them to maintain relevant records to demonstrate their compliance with these requirements for at least six years.
- 5.59 As suggested by KCOM, we have amended the definition of the first reporting period to make clear that this will start from 1 July this year to 31 March 2023. In subsequent years, the reporting periods will span the full year from 1 April to 31 March.
- 5.60 We consider these reporting requirements will benefit stakeholders by offering greater clarity and certainty about how BT and KCOM are meeting their universal service obligations. We consider they will involve only small administrative costs for BT and KCOM in collating and publishing that information, and note that neither BT or KCOM have raised any concerns about potential costs. We therefore consider the changes are proportionate.



## Other changes to tidy up the universal service conditions

### Our November proposals

- 5.61 We identified a number of other minor consequential amendments to the conditions which were necessary to ensure clarity and consistency in the terminology and definitions used throughout. In particular we proposed to remove a number of definitions from the conditions, noting that they were no longer needed, either because they would be replaced by another definition; they were superfluous or because they were terms which have the same meanings as given in the Act.
- 5.62 We also proposed some minor clarificatory changes to the wording of the universal service condition relating to tariffs (condition 4), including replacing the references to ‘Consumer’ with ‘Customer’. We noted that these changes would not change the substance of the obligations.

### Stakeholder comments

- 5.63 Almost all respondents agreed with our proposals.<sup>175</sup> On the changes to condition 4, KCOM raised concerns that the use of the definition ‘Customers’ could extend application of the condition to services it provides to other communications providers. It suggested that the term ‘End-Users’ (as defined in the general conditions) would be sufficient. KCOM also explained that since becoming a private limited company, its formal name has changed to KCOM Group Limited and it asked that this was reflected in the revised conditions.

### Our response

- 5.64 We have removed the definitions that we consider are no longer relevant from the conditions and inserted a general provision clarifying that unless otherwise defined, words or expressions will have the same meaning as in the Act, or Ofcom’s general conditions.
- 5.65 We agree that “End-Users” is sufficient for the application of condition 4. This condition is designed to ensure that those using services provided under the USO are not required to pay for additional services when doing so. It is not intended to include subscribers who are communications providers. As such, we have removed the references to “Customers” in condition 4. We have also amended the wording to reflect its name change to KCOM Group Limited.

## Legal tests

- 5.66 We consider that the changes to the universal service conditions outlined in this section meet the relevant legal tests set out in the Act. In particular we consider our decisions are:

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<sup>175</sup> BT, East Ayrshire Council, Monymusk Council, Strachur Council, and five individuals.

- **objectively justifiable:** as, for the reasons set out in this section, they are consistent with our duties and policy objectives to streamline and update the requirements on BT and KCOM, taking account of changes in the delivery of these services and removing duplication with other rules where relevant;
- **not unduly discriminatory:** as we are applying the same obligations on only BT and KCOM as the designated telephony universal service providers within their respective areas;
- **proportionate:** in that the majority of our changes involve removing existing requirements and will therefore reduce any impact on BT and KCOM in complying with them. Where we have introduced new reporting requirements in respect of PCBs, we consider these will bring benefits in improving the transparency of how BT and KCOM are performing in meeting their USO obligations (and the requirements of the Order) and they do not create an undue additional burden on BT or KCOM; and
- **transparent:** as we have explained our reasoning in this section and set out the obligations clearly in the updated conditions. The reporting conditions also seek to ensure improved transparency by increasing, and clarifying, the publicly available information about how BT and KCOM are performing in meeting their USO obligations with respect to PCBs in particular.

# A1. Notification of modifications to the telephony universal service conditions and withdrawal of the Public Call Box Direction

## Modifications under sections 45, 67 and 68(3) and (4) of the Communications Act 2003 (the “Act”) of Universal Service Conditions contained in Ofcom’s notification under section 48 of the Act of 21 July 2003, and withdrawal under section 49 of the Act of the Public Call Box Direction dated 14 March 2006

### Background

1. On 17 July 2003, the Secretary of State made secondary legislation<sup>176</sup> (the “Order”) setting out the extent to which electronic communications networks and electronic communications services must be made available or supplied throughout the UK.
2. To secure the provision of the universal service specified in the Order, Oftel (Ofcom’s predecessor), designated BT and KCOM as the universal service providers and exercised its powers to set universal service conditions in 2003.<sup>177 178</sup> The operation of the telephony universal service obligation (“USO”), as implemented through the universal service conditions, was reviewed in 2005.<sup>179</sup> As part of that review, Ofcom exercised its power to make a direction affecting the operation of the universal service conditions in relation to public call boxes on 14 March 2006 (the “Direction”).<sup>180 181</sup> Ofcom also issued guidance on the process by which local authorities consult on proposed PCB removals (the “Guidance”).<sup>182</sup> Ofcom has subsequently made further modifications to the universal service conditions.<sup>183</sup>

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<sup>176</sup> The Electronic Communications (Universal Service) Order 2003 (the “Order”), which came into force on 25 July 2003.

<sup>177</sup> The power to set universal service conditions derives from sections 45 and 67 of the Act.

<sup>178</sup> Oftel’s Universal Service Notification, 21 July 2003, took effect on 25 July 2003.

<sup>179</sup> Ofcom published its first consultation document on 10 January 2005; a statement and further consultation on 30 June 2005; and its final statement, “Review of the Universal Service Obligation”, on 14 March 2006.

<sup>180</sup> Pursuant to Section 45(10)(a) and (b) of the Act, Ofcom’s power to set a universal service condition includes the power to impose (among other things): (i) a requirement to comply with such directions with respect to the matters to which the condition relates; and (ii) an obligation with respect to those matters that is framed by reference to, or is conditional upon, the giving of a consent or of an approval. The substantive and procedural requirements which Ofcom must comply with when giving directions, approvals and consent are set out in sections 49, 49A, 49B and 49C of the Act, including the legal tests set out in section 49(2).

<sup>181</sup> A copy of the Direction is available [here](#).

<sup>182</sup> See: [2006 Guidance on procedures for the removal of public call boxes](#).

<sup>183</sup> Amendments were made to the Universal Service Conditions in 2003, 2011 and 2012.

3. In September 2017, Ofcom concluded a comprehensive review of the General Conditions and a set of revised General Conditions came into force on 1 October 2018. The General Conditions have been amended from time to time.<sup>184</sup>
4. In 2021, Ofcom published a consultation document (the “Consultation”)<sup>185</sup> as part of its review of the operation of the telephony USO and the associated universal service conditions to ensure that they effectively meet the needs of end-users as required by the Order. In particular, the Consultation considered changes in user needs and technology, such as the decline in the use of public call boxes due to mobile phone take-up and the migration of the UK’s telephone network to Internet Protocol.<sup>186</sup>
5. In the Consultation, Ofcom gave notice of proposals to modify the telephony USO in accordance with section 48A of the Act, including of its intention to withdraw the Direction. Ofcom proposed a number of changes to the process for PCB removals. Other proposed changes were intended to modernise and streamline the telephony USO, and to revoke the conditions relating to Itemised Billing and Directories. An explanation of the proposed changes and the justification for them was set out in the Consultation.
6. A copy of the proposed changes was sent to the Secretary of State under section 48C(1) of the Act.
7. In response to the Consultation, Ofcom received 25 responses. Non-confidential versions of all responses have been published on Ofcom’s website.<sup>187</sup> The Secretary of State has not notified Ofcom of any international obligation on the United Kingdom for the purposes of section 48A(6)(b).

## Decision

8. Ofcom has decided that:
  - (a) the Universal Service Conditions contained in Ofcom’s notification under section 48 of the Act of 21 July 2003 shall be modified and restated as set out in the attached Schedules; and
  - (b) the Public Call Box Direction dated 14 March 2006 shall be withdrawn.
9. These decisions are made under powers set out in sections 45(1), 45(10), 67 and 68(3) and (4) of the Act.
10. For the avoidance of doubt:

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<sup>184</sup> The General Conditions and changes to them can be accessed [here](#).

<sup>185</sup> A copy of the Consultation is available at [Consultation: Review of the telephony universal service obligation \(ofcom.org.uk\)](#).

<sup>186</sup> BT has decided to switch-off the old telephone network by December 2025, so public call boxes will need to be upgraded and new equipment installed to ensure they still work after the migration to IP.

<sup>187</sup> See [Consultation: Review of the telephony universal service obligation - Ofcom](#)

(a) Ofcom is also withdrawing the Guidance and making new guidance on BT and KCOM's obligations in respect of public call boxes, which is set out in the final statement accompanying this notification; and

(b) Ofcom is not modifying the universal service obligations imposed by Ofcom on BT and KCOM in respect of broadband services, contained in Ofcom's notification under section 48 of the Act dated 6 June 2019.<sup>188</sup>

11. Ofcom's reasons for making these decisions are set out in the final statement accompanying this notification.

## Ofcom's duties and legal tests

12. In accordance with sections 48A(6) and (7) of the Act, Ofcom has considered every representation made to it about the proposals contained in the Consultation and has decided to give effect to its proposals (with certain modifications that appear to Ofcom to be appropriate).
13. Ofcom considers that the modifications set out in this notification (including its withdrawal of the Direction) meet the tests contained in sections 47(2) and 49(2) of the Act in that they are objectively justifiable, not unduly discriminatory, proportionate, and transparent.
14. In making the decisions referred to in this notification, Ofcom has considered and acted in accordance with its general duties set out in section 3 of the Act and the six requirements in section 4 of the Act.
15. In making the modifications referred to in this notification, and consequent withdrawal of the Direction, Ofcom has also had regard to the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services designated by the Secretary of State for Digital, Culture, Media and Sport for the purposes of section 2A of the Act.
16. A copy of this notification has been sent to the Secretary of State under section 48C(1) and 49C(1)(c) of the Act.

## Interpretation

17. For the purpose of interpreting this notification:
- a. except in so far as the context otherwise requires, words or expressions have the meaning assigned to them in paragraph 18 below, and otherwise any word or expression has the same meaning as it has in the Act;
  - b. headings and titles shall be disregarded;
  - c. expressions cognate with those referred to in this notification shall be construed accordingly; and

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<sup>188</sup> See [Universal service conditions and directions \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/universal/universal-service-conditions-and-directions).

- d. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament.
18. In this notification:
- a. “**Act**” means the Communications Act 2003 (2003 c. 21);
  - b. “**BT**” means British Telecommunications plc, whose registered company number is 1800000, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined by section 1159 of the Companies Act 2006;
  - c. “**KCOM**” means KCOM Group Limited, whose registered company number is 02150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined in section 1159 of the Companies Act 2006; and
  - d. “**Ofcom**” means the Office of Communications as established pursuant to section 1(1) of the Office of Communications Act 2002 (2002 c. 11).
19. Schedules 1 and 2 shall form part of this notification.

Signed



**Selina Chadha**  
**Director of Connectivity**

**A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002**

**8 June 2022**

## Schedule 1: UNIVERSAL SERVICE CONDITIONS FOR BT

### Definitions

For the purpose of interpreting this Schedule:

- a. except in so far as the context otherwise requires, words or expressions have the meaning assigned to them in this Schedule, and otherwise any word or expression has the same meaning as it has in the Act, or the General Conditions of Entitlement;
- b. headings and titles shall be disregarded;
- c. expressions cognate with those referred to in this Schedule shall be construed accordingly; and
- d. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament.

**“Act”** means the Communications Act 2003 (c. 21);

**“BT”** means British Telecommunications plc, whose registered company number is 1800000, and any British Telecommunications plc subsidiary or holding company, or any subsidiary of that holding company, all as defined in section 1159 of the Companies Act 2006;

**“Condition”** means a universal service condition imposed by Ofcom under sections 45, 67 and 68(2) to (4) of the Act;

**“Consumers”** means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, business or profession;

**“Decision”** means a decision which BT takes about the removal or relocation of a Last-at-a-Site PCB, following the expiry of the relevant Representation Period, made pursuant to Conditions 3.8 to 3.10;

**“General Conditions of Entitlement”** means the general conditions imposed by Ofcom under section 45(2)(a) of the Act;

**“Hull Area”** means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and KCOM;

**“Initial Relevant Period”** means the period from 1 July 2022 to 31 March 2023;

**“KCOM”** means KCOM Group Limited, whose registered company number is 02150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined in section 1159 of the Companies Act 2006;

**“Last-at-a-Site PCB”** means a Public Call Box whose removal or relocation would result in the removal of all Public Call Boxes from the relevant Site;

**“Local Authority”** means:

- (a) In relation to England, a local district council (in two-tier local authority areas), a county council in England for an area for which there is no district council, a London borough council, the Corporation of London, or the Council of the Isles of Scilly;

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- (b) In relation to Northern Ireland, a Unitary District;
- (c) In relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
- (d) In relation to Wales, a county or county borough council;

or any successor bodies or organisations from time to time.

**“Ofcom”** means the Office of Communications as established under section 1 of the Office of Communications Act 2002;

**“Outgoing-Only PCB”** means a telephone which is permanently installed on public land, to which the public has access at all times, and which:

- (a) offers a service for originating, directly or indirectly, calls to Emergency Organisations using the numbers 112 and 999, and ensures that calls to those numbers cannot be disconnected by the caller but remain connected until the emergency call operator terminates the call;
- (b) offers a service only for originating, directly or indirectly, calls to all other Specified Numbers, which is provided free of charge; and
- (c) has replaced a Traditional PCB or has been provided following the process in Condition 3.16;

**“Proposal”** means a proposal by BT to remove or relocate a Last-at-a-Site PCB, made pursuant to Conditions 3.5-3.6;

**“Public Call Box”** means either:

- (a) a Traditional PCB; or
- (b) an Outgoing-Only PCB;

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

**“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 and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan;

**“Relevant Public Body”** means the Local Authority (as defined above) responsible for the area where the Last-at-a-Site PCB is located;

**“Representation Period”** means the period within which BT is required to accept representations from a Relevant Public Body about a Proposal, pursuant to Condition 3.7;

**“Removal Criteria”** means the criteria at Condition 3.3 which must be met before a Last-at-a-Site PCB can be removed from, or relocated outside, the relevant Site;

**“Review”** means BT’s internal process for reviewing a Decision which has been challenged by a Relevant Public Body, pursuant to Condition 3.11;



“**Site**”, in relation to a Public Call Box, means the area within a walking distance of 400 metres from that Public Call Box;

“**Site Notice**” means a notice displayed by BT on a Last-at-a-Site PCB informing the public of a Proposal, pursuant to Condition 3.5;

“**Specified Numbers**” means Geographic Numbers, Non-Geographic Numbers starting with 03, Mobile Numbers and all numbers that are ‘Free-to-caller’, as defined in the National Telephone Numbering Plan and 3-digit numbers allocated by Ofcom, such as 101, 105 and 111;

“**Subsequent Relevant Period**” means, from 1 April 2023, the period each year from 1 April of that year to 31 March of the following year;

“**Telephony Services**” means either or both a connection at a fixed location to the Public Communications Network and access to Publicly Available Telephone Services, including the ability to make and receive calls and facsimile;

“**Traditional PCB**” means a telephone which is permanently installed on public land, to which the public has access at all times, and which offers a service for originating and receiving, directly or indirectly, calls to Specified Numbers; and

“**Written Notice**” means a notice provided in writing regarding a Proposal, pursuant to Condition 3.6.

### **Condition 1: Provision of Telephony Services on request**

1.1 Unless Ofcom consents otherwise, BT shall provide the Telephony Services on the basis of uniform prices throughout the UK except for the Hull Area.

### **Condition 2: Schemes for consumers with special social needs**

2.1 BT shall make available from 25 July 2003 and thereafter continue to make available to Consumers in the UK except for the Hull Area who request Telephony Services, one or more schemes the effect of which would be to assist Consumers who have difficulty affording telephone services including, in particular, Consumers on low incomes or with special social needs (a ‘scheme’). Each such scheme shall comply with any direction made by Ofcom under Condition 2.2.

2.2 For the purposes of this Condition, Ofcom may from time to time make a direction specifying, amongst other things:

- (a) the requirements to be met by a scheme;
- (b) the criteria to be applied by BT in deciding which of its Consumers are entitled to the benefits of a scheme; and/or
- (c) the date of the introduction of a scheme.

## **Review of the telephony universal service obligation**

- 2.3 Unless Ofcom consents otherwise, where BT proposes to introduce a new scheme (which, for the avoidance of doubt, excludes a scheme made available from 25 July 2003), or proposes to amend an existing scheme to a significant extent, BT shall not bring that new scheme or amendment into effect unless it has provided written notice to Ofcom of its proposals at least three months in advance.
- 2.4 BT shall prepare and publish information describing each scheme for the benefit of Consumers within two weeks of the introduction of any such new scheme or any such amendment to an existing scheme. Publication of such information shall be effected by:
- (a) sending a copy of such information to any person who may reasonably request such a copy; and
  - (b) placing a copy of such information on any relevant website operated or controlled by BT.
- 2.5 Unless Ofcom consents otherwise, BT shall ensure that Telephony Services provided in accordance with any scheme under this Condition are provided on the basis of uniform prices throughout the UK except for the Hull Area.

### **Condition 3: Public Call Boxes**

#### **Provision of Public Call Boxes**

- 3.1 BT must ensure the adequate provision, repair and maintenance of Public Call Boxes throughout the UK (excluding the Hull Area) in order to meet the reasonable needs of End-Users in terms of geographical coverage, the number of Public Call Boxes, and the quality of Public Electronic Communications Services from those Public Call Boxes.

#### **Removal or relocation of Public Call Boxes including Last-at-a-Site PCBs**

- 3.2 Subject to Conditions 3.3 and 3.4, BT may remove or relocate a Public Call Box.
- 3.3 BT may only remove or relocate a Last-at-a-Site PCB outside of the relevant Site where:
- (a) all UK-wide mobile network operators have coverage at the Site;
  - (b) the Site is not a high frequency accident or suicide location;
  - (c) fewer than 52 calls were made from the Last-at-a-Site PCB in the 12 months prior to the start of the relevant Representation Period; and
  - (d) there is no other evidence of a reasonable need for a Public Call Box at the Site.
- 3.4 BT may only remove or relocate a Last-at-a-Site PCB in accordance with Conditions 3.5 to 3.14 (inclusive).

#### **Notification and Publication Requirements**

- 3.5 Where BT proposes to remove or relocate a Last-at-a-Site PCB, BT must:
- (a) display a notice in a prominent place on that PCB setting out:
    - i) the Proposal, including the proposed new location, if applicable;

## Review of the telephony universal service obligation

- ii) contact details of the Relevant Public Body;
    - iii) the Representation Period; and
    - iv) the location of the nearest alternative Public Call Box; and
  - (b) publish all of the information referred to in this Condition in an easily accessible place.
- 3.6 Where BT proposes to remove or relocate a Last-at-a-Site PCB, BT must give written notice to the Relevant Public Body setting out:
- (a) the Proposal, including details of the location of the Last-at-a-Site PCB and any proposed new location, if applicable;
  - (b) all relevant evidence and other information in relation to the Removal Criteria;
  - (c) the date on which the Site Notice was first displayed on the Last-at-a-Site PCB;
  - (d) the Representation Period;
  - (e) an explanation that BT is required:
    - i) to take due account of representations relating to the Removal Criteria made by the Relevant Public Body in making its Decision; and
    - ii) to provide written reasons for its Decision;
  - (f) details of the process applicable to a Review of the Decision, including the deadlines implemented by BT as part of that process, in compliance with these Conditions; and
  - (g) a copy of the Site Notice.
- 3.7 BT must set a Representation Period which ends no less than 90 days after the day on which the Site Notice was first displayed or the Written Notice was sent, whichever was later.

### Decision making process

- 3.8 BT must not make a Decision before the expiry of the relevant Representation Period.
- 3.9 In making a Decision, BT must:
- (a) take due account of any representations relating to the Removal Criteria made by the Relevant Public Body; and
  - (b) only decide to remove or relocate the Last-at-a-Site PCB where BT reaches a reasonable conclusion that all of the Removal Criteria are satisfied.
- 3.10 BT must:
- (a) notify the Relevant Public Body of the Decision in writing, setting out BT's full consideration of any relevant representations, including in circumstances where no representations were made by the Relevant Public Body; and
  - (b) publish the Decision and written reasons together on the same day as the Decision is notified to the Relevant Public Body.
- 3.11 BT must facilitate a system for requesting the Review of a Decision. BT must:

## Review of the telephony universal service obligation

- (a) allow the Relevant Public Body to request a Review within 21 days of the notification of the Decision; and
  - (b) when deciding whether to proceed with a Review, consider whether there is reasonable justification to reconsider the Decision.
- 3.12 BT is only required to consider a request for a Review where representations have been made by the Relevant Public Body during the Representation Period.
- 3.13 Where BT decides to proceed with a Review, it must ensure that:
- (a) it allows a reasonable period of time for the Relevant Public Body to put forward representations;
  - (b) a senior level employee, who was unconnected with the Decision, is the decision maker on the Review;
  - (c) it takes due account of any representations relating to the Removal Criteria made by the Relevant Public Body; and
  - (d) it publishes the outcome of the Review.

### Implementation of decisions

- 3.14 BT must ensure that the removal or relocation of a Last-at-a-Site PCB does not take place until either the deadline for the Relevant Public Body to request a Review has expired or until publication of the outcome of a Review, whichever is later.
- 3.15 Ofcom may direct BT not to remove, or to reinstate, a Last-at-a-Site PCB if it has reasonable grounds to believe that BT may have failed to meet its obligations under these Conditions.

### Provision of new Public Call Boxes

- 3.16 BT must consider any request made by a Relevant Public Body for the provision of a new Public Call Box in the area for which it is responsible. Where BT receives such a request, it must assess whether a new Public Call Box is needed in order to meet the reasonable needs of End-Users before deciding whether to grant the request. In making such an assessment, BT must act reasonably, taking particular account of evidence concerning whether the requested new Public Call Box would be located in an area that:
- (a) does not have coverage from all UK-wide mobile network operators; and/or
  - (b) has a high frequency of accidents or suicides.

### Resilience requirements

- 3.17 BT must take all necessary measures to ensure:
- (a) the fullest possible availability of its Public Call Boxes in the event of catastrophic network breakdown or in cases of force majeure; and
  - (b) uninterrupted access to calls to Emergency Organisations as part of the provision of the Public Call Boxes.

### Pricing of services offered from Public Call Boxes

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- 3.18 Where BT applies charges from Public Call Boxes, those charges must be on the basis of uniform prices throughout the UK (excluding the Hull Area) unless Ofcom consents otherwise.

### **Removal of cash payment facility**

- 3.19 Where a Public Call Box has a cash payment facility, BT may only remove that facility where either:
- (a) all calls from the Public Call Box are free of charge; or
  - (b) BT has reasonably assessed there is no ongoing user need to pay by cash at that Public Call Box.

### **Condition 4: Tariffs for Universal Services**

- 4.1 BT shall ensure that the terms and conditions upon which a service or a facility is provided in accordance with these Conditions to an End-User do not require that End-User to pay for an additional service which is not necessary for the purpose of providing the End-User with that service or facility.
- 4.2 For the purposes of Condition 4.1, references, in relation to an End-User, to an unnecessary additional service are references to anything the provision of which:
- (a) that End-User has to accept as a result of being provided, on request, with a service or facility in accordance with these Conditions ('the requested service'); and
  - (b) is not necessary for the purpose of providing that End-User with the requested service.
- 4.3 For the purposes of Conditions 4.1 and 4.2, references to providing an End-User with anything include references to making it available or supplying it to that End-User.

### **Condition 5: Quality of Service and Reporting**

- 5.1 For each of the Initial Relevant Period and the Subsequent Relevant Periods, BT must provide to Ofcom and publish the following information:
- (a) the total number of Public Call Boxes provided to meet their obligations under these Conditions in that period;
  - (b) the total number of Public Call Boxes not in working order on the last working day of that period;
  - (c) the total number of Public Call Boxes reported as faulty or damaged in that period;
  - (d) the total number of Public Call Box repairs completed in that period;
  - (e) the average time taken (from a fault being reported to its repair) for repairs to faulty or damaged Public Call Boxes to be completed in that period;
  - (f) the total number of Proposals made in that period;

## **Review of the telephony universal service obligation**

- (g) the total number of Last-at-a-Site PCBs which have been removed or relocated outside of the relevant Site in that period. This should also specify the number which were removed or relocated after being:
    - (i) subject to a request for a Review which was declined; and
    - (ii) subject to a Review which upheld the Decision; and
  - (h) the total number of Last-at-a-Site PCBs which have not been removed or relocated outside of the relevant Site in that period, but which were:
    - (i) subject to successful representations made during the Representation Period;
    - (ii) subject to a Review which overturned the Decision.
- 5.2 BT must provide to Ofcom, and publish, the information required under Condition 5.1 no later than three months after the expiry of the Initial Relevant Period, and each Subsequent Relevant Period thereafter.
- 5.3 BT must maintain all records relevant to the information required under Condition 5.1 for at least six years.

### **Condition 6: Disposals**

- 6.1 Subject to Condition 6.2, where BT proposes to make a disposal to another person of a substantial part of all of its local access network assets, it shall inform Ofcom of the proposed disposal no less than one month in advance of such disposal.
- 6.2 Condition 6.1 does not apply where the proposed disposal is to a connected company (within the meaning given by section 1122(2) of the Corporation Tax Act 2010).

### **Condition 7: General provisions applicable to Conditions 1 to 6 (inclusive)**

- 7.1 For the purpose of these Conditions, publication must be effected by:
- (a) placing a copy of the relevant information in a prominent place on a publicly available website operated or controlled by BT; and
  - (b) sending a copy of the relevant information to any person at that person's written request.
- 7.2 Ofcom may from time to time give, under these Conditions, a direction, approval or consent requiring BT to comply with additional requirements under these Conditions.
- 7.3 In particular, for the purposes of these Conditions, Ofcom may from time to time make a direction specifying:
- (a) quality of service standards to be used to measure BT's performance in complying with these Conditions; and
  - (b) additional requirements with respect to the form and content of the information to be provided to Ofcom and published.

## **Schedule 2: UNIVERSAL SERVICE CONDITIONS FOR KCOM**

### **Definitions**

For the purpose of interpreting this Schedule:

- a. except in so far as the context otherwise requires, words or expressions have the meaning assigned to them in this Schedule, and otherwise any word or expression has the same meaning as it has in the Act, or the General Conditions of Entitlement;
- b. headings and titles shall be disregarded;
- c. expressions cognate with those referred to in this Schedule shall be construed accordingly; and
- d. the Interpretation Act 1978 shall apply as if this notification were an Act of Parliament.

**“Act”** means the Communications Act 2003 (c. 21);

**“Condition”** means a universal service condition imposed by Ofcom under sections 45, 67 and 68(2) to (4) of the Act;

**“Consumers”** means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, profession or business;

**“Decision”** means a decision which KCOM takes about the removal or relocation of a Last-at-a-Site PCB, following the expiry of the relevant Representation Period, made pursuant to Conditions 3.8 to 3.10;

**“General Conditions of Entitlement”** means the general conditions imposed by Ofcom under section 45(2)(a) of the Act;

**“Hull Area”** means the area defined as the 'Licensed Area' in the licence granted on 30 November 1987 by the Secretary of State under section 7 of the Telecommunications Act 1984 to Kingston upon Hull City Council and KCOM;

**“Initial Relevant Period”** means the period from 1 July 2022 to 31 March 2023;

**“KCOM”** means KCOM Group Limited, whose registered company number is 02150618, and any of its subsidiaries or holding companies, or any subsidiary of such holding companies, all as defined in section 1159 of the Companies Act 2006;

**“Last-at-a-Site PCB”** means a Public Call Box whose removal or relocation would result in the removal of all Public Call Boxes from the relevant Site;

**“Local Authority”** means a local district council (in two-tier local authority areas), a county council for an area for which there is no district council; or any successor bodies or organisations from time to time;

**“Ofcom”** means the Office of Communications as established under section 1 of the Office of Communications Act 2002;

**“Outgoing-Only PCB”** means a telephone which is permanently installed on public land, to which the public has access at all times, and which:

## Review of the telephony universal service obligation

- (a) offers a service for originating, directly or indirectly, calls to Emergency Organisations using the numbers 112 and 999, and ensures that calls to those numbers cannot be disconnected by the caller but remain connected until the emergency call operator terminates the call;
- (b) offers a service only for originating, directly or indirectly, calls to all other Specified Numbers, which is provided free of charge; and
- (c) has replaced a Traditional PCB or has been provided following the process in Condition 3.16;

**“Proposal”** means a proposal by KCOM to remove or relocate a Last-at-a-Site PCB, made pursuant to Conditions 3.5 to 3.6;

**“Public Call Box”** means either:

- (a) a Traditional PCB; or
- (b) an Outgoing-Only PCB.

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

**“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 and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan;

**“Relevant Public Body”** means the Local Authority (as defined above) responsible for the area where the Last-at-a-Site PCB is located;

**“Representation Period”** means the period within which KCOM is required to accept representations from a Relevant Public Body about a Proposal, pursuant to Condition 3.7;

**“Removal Criteria”** means the criteria at Condition 3.3 which must be met before a Last-at-a-Site PCB can be removed from, or relocated outside, the relevant Site;

**“Review”** means KCOM’s internal process for reviewing a Decision which has been challenged by a Relevant Public Body, pursuant to Condition 3.11;

**“Site”**, in relation to a Public Call Box, means the area within a walking distance of 400 metres from that Public Call Box;

**“Site Notice”**, means a notice displayed by KCOM on a Last-at-a-Site PCB informing the public of a Proposal, pursuant to Condition 3.5;

**“Specified Numbers”** means Geographic Numbers, Non-Geographic Numbers starting with 03, Mobile Numbers and all numbers that are ‘Free-to-caller’, as defined in the National Telephone Numbering Plan and 3-digit numbers allocated by Ofcom, such as 101, 105 and 111;

**“Subsequent Relevant Period”** means, from 1 April 2023, the period each year from 1 April of that year to 31 March of the following year;



**“Telephony Services”** means either or both a connection at a fixed location to Public Communications Network and access to Publicly Available Telephone Services, including the ability to make and receive calls and facsimile;

**“Traditional PCB”** means a telephone which is permanently installed on public land, to which the public has access at all times, and which offers a service for originating and receiving, directly or indirectly, calls to Specified Numbers; and

**“Written Notice”** means a notice provided in writing regarding a Proposal, pursuant to Condition 3.6.

**Condition 1: Provision of Telephony Services on request**

1.1 Unless Ofcom consents otherwise, KCOM shall provide the Telephony Services on the basis of uniform prices throughout the Hull Area.

**Condition 2: Schemes for consumers with special social needs**

2.2 KCOM shall make available from 25 July 2003 and thereafter continue to make available to Consumers in the Hull Area who request Telephony Services, one or more schemes the effect of which would be to assist Consumers who have difficulty affording telephone services including, in particular, Consumers on low incomes or with special social needs (a ‘scheme’). Each such scheme shall comply with any direction made by Ofcom under Condition 2.2.

2.2 For the purposes of this Condition, Ofcom may from time to time make a direction specifying, amongst other things:

- (a) the requirements to be met by a scheme;
- (b) the criteria to be applied by KCOM in deciding which of its Consumers are entitled to the benefits of a scheme; and/or
- (c) the date of the introduction of a scheme.

2.3 Unless Ofcom consents otherwise, where KCOM proposes to introduce a new scheme (which, for the avoidance of doubt, excludes a scheme made available from 25 July 2003), or proposes to amend an existing scheme to a significant extent, KCOM shall not bring that new scheme or amendment into effect unless it has provided written notice to Ofcom of its proposals at least three months in advance.

2.4 KCOM shall prepare and publish information describing each scheme for the benefit of Consumers within two weeks of the introduction of any such new scheme or any such amendment to an existing scheme. Publication of such information shall be effected by:

- (a) sending a copy of such information to any person who may reasonably request such a copy; and

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- (b) placing a copy of such information on any relevant website operated or controlled by KCOM.
- 2.5 Unless Ofcom consents otherwise, KCOM shall ensure that Telephony Services provided in accordance with any scheme under this Condition are provided on the basis of uniform prices throughout the Hull Area.

### **Condition 3: Public Call Boxes**

#### **Provision of Public Call Boxes**

- 3.1 KCOM must ensure the adequate provision, repair and maintenance of Public Call Boxes throughout the Hull Area in order to meet the reasonable needs of End-Users in terms of geographical coverage, the number of Public Call Boxes, and the quality of Public Electronic Communications Services from those Public Call Boxes.

#### **Removal or relocation of Public Call Boxes including Last-at-a-Site PCBs**

- 3.2 Subject to Conditions 3.3 and 3.4, KCOM may remove or relocate a Public Call Box.
- 3.3 KCOM may only remove or relocate a Last-at-a-Site PCB outside of the relevant Site where:
- (a) all UK-wide mobile network operators have coverage at the Site;
  - (b) the Site is not a high frequency accident or suicide location;
  - (c) fewer than 52 calls were made from the Last-at-a-Site PCB in the 12 months prior to the start of the relevant Representation Period; and
  - (d) there is no other evidence of a reasonable need for a Public Call Box at the Site.
- 3.4 KCOM may only remove or relocate a Last-at-a-Site PCB in accordance with Conditions 3.5 to 3.14 (inclusive).

#### **Notification and Publication Requirements**

- 3.5 Where KCOM proposes to remove or relocate a Last-at-a-Site PCB, KCOM must:
- (a) display a notice in a prominent place on the Last-at-a-Site PCB setting out:
    - i) the Proposal, including the proposed new location, if applicable;
    - ii) contact details of the Relevant Public Body;
    - iii) the Representation Period; and
    - iv) the location of the nearest alternative Public Call Box; and
  - (b) publish all of the information referred to in this Condition in an easily accessible place.
- 3.6 Where KCOM proposes to remove or relocate a Last-at-a-Site PCB, KCOM must give written notice to the Relevant Public Body setting out:
- (a) the Proposal, including details of the location of the Last-at-a-Site PCB and any proposed new location, if applicable;
  - (b) all relevant evidence and other information in relation to the Removal Criteria;

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- (c) the date on which the Site Notice was first displayed on the Last-at-a-Site PCB;
- (d) the Representation Period;
- (e) an explanation that KCOM is required:
  - i) to take due account of representations relating to the Removal Criteria made by the Relevant Public Body in making its Decision; and
  - ii) to provide written reasons for its Decision;
- (f) details of the process applicable to a Review of the Decision, including the deadlines implemented by KCOM as part of that process, in compliance with these Conditions; and
- (g) a copy of the Site Notice.

3.7 KCOM must set a Representation Period which ends no less than 90 days after the day on which the Site Notice was first displayed or the Written Notice was sent, whichever was later.

### Decision making process

3.8 KCOM must not make a Decision before the expiry of the relevant Representation Period.

3.9 In making a Decision, KCOM must:

- (a) take due account of any representations relating to the Removal Criteria made by the Relevant Public Body; and
- (b) only decide to remove or relocate the Last-at-a-Site PCB where KCOM reaches a reasonable conclusion that all of the Removal Criteria are satisfied.

3.10 KCOM must:

- (a) notify the Relevant Public Body of the Decision in writing, setting out KCOM's full consideration of any relevant representations, including in circumstances where no representations were made by the Relevant Public Body; and
- (b) publish the Decision and written reasons together on the same day as the Decision is notified to the Relevant Public Body.

3.11 KCOM must facilitate a system for requesting the Review of a Decision. KCOM must:

- (a) allow the Relevant Public Body to request a Review within 21 days of the notification of the Decision; and
- (b) when deciding whether to proceed with a Review, consider whether there is reasonable justification to reconsider the Decision.

3.12 KCOM is only required to consider a request for a Review where representations have been made by the Relevant Public Body during the Representation Period.

3.13 Where KCOM decides to proceed with a Review, it must ensure that:

## **Review of the telephony universal service obligation**

- (a) it allows a reasonable period of time for the Relevant Public Body to put forward representations;
- (b) a senior level employee, who was unconnected with the Decision, is the decision maker on the Review;
- (c) it takes due account of any representations relating to the Removal Criteria made by the Relevant Public Body; and
- (d) it publishes the outcome of the Review.

### **Implementation of decisions**

- 3.14 KCOM must ensure that the removal or relocation of a Last-at-a-Site PCB does not take place until either the deadline for the Relevant Public Body to request a Review has expired or until publication of the outcome of a Review, whichever is later.
- 3.15 Ofcom may direct KCOM not to remove, or to reinstate, a Last-at-a-Site PCB if it has reasonable grounds to believe that KCOM may have failed to meet its obligations under these Conditions.

### **Provision of new Public Call Boxes**

- 3.16 KCOM must consider any request made by a Relevant Public Body for the provision of a new Public Call Box in the area for which it is responsible. Where KCOM receives such a request, it must assess whether a new Public Call Box is needed in order to meet the reasonable needs of End-Users before deciding whether to grant the request. In making such an assessment, KCOM must act reasonably, taking particular account of evidence concerning whether the requested new Public Call Box would be located in an area that:
- (a) does not have coverage from all UK-wide mobile network operators; and/or
  - (b) has a high frequency of accidents or suicides.

### **Resilience requirements**

- 3.17 KCOM must take all necessary measures to ensure:
- (a) the fullest possible availability of its Public Call Boxes in the event of catastrophic network breakdown or in cases of force majeure; and
  - (b) uninterrupted access to calls to Emergency Organisations as part of the provision of the Public Call Boxes.

### **Pricing of services offered from Public Call Boxes**

- 3.18 Where KCOM applies charges from Public Call Boxes, those charges must be on the basis of uniform prices (throughout the Hull Area) unless Ofcom consents otherwise.

### **Removal of cash payment facility**

- 3.19 Where a Public Call Box has a cash payment facility, KCOM may only remove that facility where either:
- (a) all calls from the Public Call Box are free of charge; or

- (b) KCOM has reasonably assessed there is no ongoing user need to pay by cash at that Public Call Box.

**Condition 4: Tariffs for Universal Services**

- 4.1 KCOM shall ensure that the terms and conditions upon which a service or a facility is provided in accordance with these Conditions to an End-User do not require that End-User to pay for an additional service which is not necessary for the purpose of providing the End-User with that service or facility.
- 4.2 For the purposes of Condition 4.1, references, in relation to an End-User, to an unnecessary additional service are references to anything the provision of which:
  - (a) that End-User has to accept as a result of being provided, on request, with a service or facility in accordance with these Conditions ('the requested service'); and
  - (b) is not necessary for the purpose of providing that End-User with the requested service.
- 4.3 For the purposes of Conditions 4.1 and 4.2, references to providing an End-User with anything include references to making it available or supplying it to that End-User.

**Condition 5: Quality of Service and Reporting**

- 5.1 For each of the Initial Relevant Period and the Subsequent Relevant Periods, KCOM must provide to Ofcom and publish the following information:
  - (a) the total number of Public Call Boxes provided to meet their obligations under these Conditions in that period;
  - (b) the total number of Public Call Boxes not in working order on the last working day of that period;
  - (c) the total number of Public Call Boxes reported as faulty or damaged in that period;
  - (d) the total number of Public Call Box repairs completed in that period;
  - (e) the average time taken (from a fault being reported to its repair) for repairs to faulty or damaged Public Call Boxes to be completed in that period;
  - (f) the total number of Proposals made in that period;
  - (g) the total number of Last-at-a-Site PCBs which have been removed or relocated outside of the relevant Site in that period. This should also specify the number which were removed or relocated after being:
    - (i) subject to a request for a Review which was declined; and
    - (ii) subject to a Review which upheld the Decision; and
  - (h) the total number of Last-at-a-Site PCBs which have not been removed or relocated outside of the relevant Site in that period but which were:
    - (i) subject to successful representations made during the Representation Period;
    - (ii) subject to a Review which overturned the Decision.

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- 5.2 KCOM must provide to Ofcom, and publish the information required under Condition 5.1 no later than three months after the expiry of the Initial Relevant Period and each Subsequent Relevant Period thereafter.
- 5.3 KCOM must maintain all records relevant to the information required under Condition 5.1 for at least six years.

### **Condition 6: Disposals**

- 6.1 Subject to Condition 6.2, where KCOM proposes to make a disposal to another person of a substantial part of all of its local access network assets, it shall inform Ofcom of the proposed disposal no less than one month in advance of such disposal.
- 6.2 Condition 6.1 does not apply where the proposed disposal is to a connected company (within the meaning given by section 1122(2) of the Corporation Tax Act (2010)).

### **Condition 7: General provisions applicable to Conditions 1 to 6 (inclusive)**

- 7.1 For the purpose of these Conditions, publication must be effected by:
  - (a) placing a copy of the relevant information in a prominent place on a publicly available website operated or controlled by KCOM; and
  - (b) sending a copy of the relevant information to any person at that person's written request.
- 7.2 Ofcom may from time to time give, under these Conditions, a direction, approval or consent requiring KCOM to comply with additional requirements under these Conditions.
- 7.3 In particular, for the purposes of these Conditions, Ofcom may from time to time make a direction specifying:
  - (a) quality of service standards to be used to measure KCOM's performance in complying with these Conditions; and
  - (b) additional requirements with respect to the form and content of the information to be provided to Ofcom and published.

## A2. Guidance on public call boxes

### Introduction

- A2.1 BT (outside Hull) and KCOM (in the Hull area only) are the designated telephony Universal Service Providers in the UK. Under the Universal Service Conditions (“the Conditions”), they are required to ensure the adequate provision, repair and maintenance of Public Call Boxes (‘PCBs’). The Conditions also specify the approach they must take to: the removal or relocation of PCBs (Condition 3.2-3.15); the resilience of their PCBs, for example in the event of a power cut (Condition 3.17); the removal of cash-payment facilities in their PCBs (Condition 3.19); and reporting on their compliance with these obligations (Conditions 5.1-5.3).
- A2.2 This guidance sets out our expectations on how BT and KCOM should approach compliance with these Conditions. This Guidance replaces the previous Guidance from 2006.
- A2.3 Words and expressions used in the Conditions shall have the same meaning when used in this guidance.

### Removal of a last at a site PCB

#### Criteria for assessing whether a last at a site PCB can be removed

- A2.4 Under Condition 3.3 BT and KCOM may only remove or relocate a Last-at-a-Site PCB where all of the following Removal Criteria are met:
- a) all UK-wide mobile network operators have coverage at the Site;
  - b) the Site is not a high frequency accident or suicide location;
  - c) fewer than 52 calls were made from the last at a site PCB in the 12 months prior to the start of the relevant Representation Period; and
  - d) there is no other evidence of a reasonable user need for that PCB.

#### Measurement of mobile coverage at the Site

- A2.5 In measuring whether a Last-at-a-Site PCB has coverage from all UK network providers, we expect BT and KCOM to undertake on-site testing at the relevant PCB in the following circumstances:
- a) where our mobile coverage checker tool<sup>189</sup> indicates that the site does not have good indoor mobile coverage from all UK network providers; or

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<sup>189</sup> [View mobile availability - Ofcom Checker](#)

- b) following a request (supported by relevant evidence<sup>190</sup>) from a Relevant Public Body as part of responding to a consultation on a proposed Last-at-a-Site PCB removal (where an on-site test has not previously been undertaken at that PCB prior to consultation).

A2.6 Where BT and KCOM undertake on-site testing, we expect this to involve a test of whether a one-minute voice call can be made without disruption. In assessing whether this test has been met, BT and KCOM should:

- a) undertake this test at a range of points within a 50-metre radius of the Last-at-a-Site PCB;
- b) ensure at least five such tests are undertaken for each network operator, and the test is met at least 90% of the time; and
- c) ensure that a typical, widely available mobile device is used to undertake the test.

A2.7 If constraints of the geographic landscape mean that undertaking such test within a 50-metre radius is not practical (e.g. if the PCB is located by the coast, or next to an inaccessible area), BT and KCOM should take reasonable steps to secure a measurement which is as close to this test as possible, and which is objectively justified in light of any geographic constraints.

### High frequency accident or suicide location

A2.8 In assessing whether a Last-at-a-Site PCB is in a high frequency accident or suicide location, we expect BT and KCOM to take reasonable steps to identify such areas based on evidence that is available to them, which could include, for example:

- a) data on calls made from the PCB to emergency services and suicide-related helplines during the 12 months prior to the start of the Representation Period; and
- b) publicly available data on accidents in the area (where such data shows a clear pattern of serious accidents within close proximity of the PCB);

### Usage

A2.9 In assessing whether this criterion is met, BT and KCOM can disregard calls made from a PCB where there is evidence these are hoax or nuisance calls, or indications that the PCB is being used for illegal activity. This could include, for example, if the police, emergency services or helpline providers have shared relevant evidence, or it is clear from BT or KCOM's own call records.

A2.10 When calculating use, if the PCB has been out of working order or was inaccessible for any reason during the relevant 12 month period, we expect BT and KCOM to make a reasonable pro-rata projection for the additional calls that would have been made during the time the PCB was out of service or inaccessible (and this should include taking account of the usage and distribution of calls made in previous years where relevant).

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<sup>190</sup> This evidence may include details (e.g. times, locations) where calls could not be made to a particular MNO in the area because of poor signal.



A2.11 We also expect BT and KCOM to take account of usage of other PCBs within the Site that have been removed or relocated within the previous 12 months. In particular BT and KCOM should add the usage of such PCBs to the usage of the Last-at-a-Site PCB when assessing if it has met the usage criterion.

#### Other evidence of reasonable need

A2.12 In assessing whether this criterion is met, we expect BT and KCOM to make a reasonable assessment of whether there is any other relevant evidence (not already captured under the first three Removal Criteria) relating to the reasonable need for the PCB. This, in particular, should include any evidence on the types of calls made from the PCB, beyond those set out under the high frequency accident or suicide location Removal Criterion. For example, if there is evidence of the PCB being used to make genuine calls to identifiable helpline numbers (such as Childline or NHS 111).<sup>191</sup>

A2.13 We also expect BT and KCOM to give proper consideration to evidence provided by Relevant Public Bodies about local factors that are directly relevant to the need to maintain a PCB for telephony purposes. For example, this might include evidence relating to the PCB having been relied upon in the event of a local emergency, such as flooding.

#### Information included in notices to Relevant Public Bodies

A2.14 Where BT or KCOM propose to remove or relocate a Last-at-a-Site PCB, they must give written notice to the Relevant Public Body. Condition 3.6(b) provides that this written notice must include all relevant evidence and other information in relation to the Removal Criteria.

A2.15 In complying with this Condition, we expect BT and KCOM to include at least the following information in the notice:

- a) mobile coverage at the PCB, in particular:
  - i) the results of any on-site mobile coverage testing; or
  - ii) information about coverage reported in Ofcom's mobile coverage checker and the option for Relevant Public Bodies to make a request (supported by evidence) for an on-site coverage measurement to be carried out.
- b) an assessment of usage of the PCB, including the number of calls made from the PCB in the previous 12 months, a breakdown of the number of emergency and helpline calls made, how the usage of any other PCBs within the Site has been taken into account, and any adjustments made if the PCB was out of service/inaccessible for any time during the 12-month period; and

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<sup>191</sup> BT and KCOM would not be expected to include hoax emergency calls in making this assessment (where such information is known either through its own call records or feedback from relevant helpline providers).

- c) any other relevant evidence or information BT or KCOM has relied on in assessing whether the PCB is likely to meet the Removal Criteria (for example, information on accidents or suicides at the PCB location, or the results of any engagement it has undertaken with relevant helplines regarding that PCB prior to consultation).

## Resilience of PCBs

- A2.16 Under Condition 3.17, BT and KCOM are required to take all necessary measures to ensure:
- i) the fullest possible availability of their PCBs in the event of catastrophic network breakdown or in cases of force majeure; and
  - ii) uninterrupted access to calls to Emergency Organisations as part of the provision of the PCBs.
- A2.17 In complying with this obligation, we expect BT and KCOM to assess and identify the PCBs that are likely to be relied upon in the event of a power outage and which therefore require a solution to ensure uninterrupted access to emergency calls. We expect in particular that at least one PCB at a Site in areas without mobile coverage from any UK network should include such a solution. Other factors which we expect BT and KCOM should take into account in this assessment include:
- a) areas which have a history of frequent and/or long duration power outages;
  - b) high frequency accident locations; and/or
  - c) remote rural settlements.
- A2.18 In identifying which PCBs may fall under the factors outlined in the paragraph above, it may be helpful for BT and KCOM to seek guidance from Relevant Public Bodies.
- A2.19 The solution used to meet the requirements of Condition 3.17 should ensure that calls to Emergency Organisations can be made from relevant PCBs for a minimum of three hours in the event of a power outage affecting the area.
- A2.20 We expect BT and KCOM to take additional measures to ensure PCBs in areas with long-duration power outages continue to allow uninterrupted access to calls to Emergency Organisations for more than three hours where necessary (e.g. sending engineers out with additional batteries to those sites in the event of a power cut or enabling mobile generator power back-up).
- A2.21 We consider BT and KCOM should display a prominent notice on those PCBs which do not have a resilience solution installed which clearly indicates that the PCB will not function in the event of a power cut and, where relevant, gives directions to any PCBs located nearby that do have a resilience solution. For those PCBs which do have a resilience solution, we consider BT and KCOM should display a notice in PCBs stating the minimum length of that solution.

## Removing cash payment facilities

- A2.22 Condition 3.19 requires BT and KCOM to reasonably assess whether there is an ongoing user need for making payments by cash before they remove the cash payment facilities from a PCB (unless the PCB offers free calls).
- A2.23 In complying with this obligation, we expect BT and KCOM to take reasonable steps to assess ongoing need for cash payment facilities and to gather appropriate evidence (which may include consultation with Relevant Public Bodies) to support that assessment prior to removing any such facilities. For example, relevant evidence could include the existing cash usage in a PCB over the last year. In particular, where a PCB has both cash and card payment facilities, if the majority of calls made from a PCB were paid for using cash, we would not expect the cash payment facility to be removed from that PCB.

## PCBs reported as damaged or faulty

- A2.24 Under Condition 5.1, BT and KCOM are required to report each year on the total number of their PCBs reported as damaged or faulty.
- A2.25 In complying with this obligation, we expect BT and KCOM to take account not only of issues related to whether calls can be made from a PCB, but also whether damage to the box makes it inaccessible or unusable (and therefore effectively prevents calls from being made).

## A3. Letter from Ofcom to DCMS on removal of fax from the USO

[Letter to DCMS](#) is available.