

Consultation response form

Please complete this form in full and return to telephonyUSO@ofcom.org.uk.

Consultation title	Review of the telephony universal service obligation
Full name	The Highland Council
Contact phone number	[✕]
Representing (delete as appropriate)	Organisation
Organisation name	The Highland Council
Email address	[✕]

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	None
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	None
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes

Your response

Question	Your response
Question 1: Do you agree with our proposed changes to the requirements on BT and KCOM in respect of the pricing and services provided by their PCBs? In particular do you agree with: (i) allowing free calls from PCBs;	Confidential – N 1. Removal of incoming call capability should be subject to Ofcom introducing an additional, parallel <u>requirement</u> that safeguards be introduced to ensure outbound calls to emergency services can only be terminated by the

(ii) removing the requirement for PCBs to offer incoming calls where outgoing calls are free;
(iii) removing the requirement for PCBs to offer outgoing calls to unbundled tariff numbers (including premium rate and directory enquiries) and international numbers; and
(iv) removing the requirement for 70% of PCBs to accept cash payment and replacing it with a requirement on BT and KCOM to assess whether cash payment facilities meet an ongoing need.

Please provide reasons for your view.

emergency call operator on confirmation that emergency services have arrived at the area. Introduction of such safeguards must not be left discretionary.

Public call boxes in remote and rural areas are a common lifeline to hill walkers and tourists facing emergencies – often in areas with unreliable mobile signals. The remote location of such call boxes can mean there is a considerable delay before a rescuer can reach an emergency caller. If a caller does not have mobile reception and has used a call box with no incoming call capability to raise help, rescuers will not be able to call them back to update them on what is happening or to get further information on the situation.

Additional protections for emergency calls are therefore essential in the case of at least all boxes in areas with unreliable mobile signal, in the event of removal of inbound call capability.

Question 2: Do you agree with our proposed new process for BT and KCOM to consult on proposed PCB removals? In particular do you agree with our proposed removal criteria for assessing whether there is an ongoing need for a PCB?

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Removal criteria:

Highland Council welcomes the proposed strengthening of criteria for protection, particularly in areas with poor mobile reception:

Mobile Phones - Community consultation on proposed payphone removals has regularly highlighted concern around unreliable mobile signals in areas where PCBs provide life-line access to emergency services. We therefore also welcome the requirement that BT must begin the removal process by first providing evidence of site-testing of mobile signal on all four networks - to justify removal would not risk public safety.

Accident or Suicide Spots - we also welcome clarification that PCBs at

accident or suicide hotspots will automatically be protected, irrespective of mobile coverage at the location.

Reasonable Need Criterion:

We welcome Ofcom's proposed requirement that any PCB which is used for at least 52 calls per year on average will automatically be protected from removal. Highland Council does not recognise BT's current requirement that there be 500 households within 1 kilometre of a payphone, used 120 times per year – this fails to recognise dispersed deprivation and vulnerable communities. The proposed 52 call threshold is set at a level which is more appropriate in recognising lower population densities across many rural and remote areas. This concern is particularly important for rural areas which are also subject to higher levels of social deprivation, reasonably associated with lower levels of mobile phone ownership and access to landlines.

Exceptional Circumstances

Whilst the addition of exceptional circumstances as a criteria is welcomed, it should not be left to the discretion or interpretation by BT to define what is exceptional. Exceptional circumstances should be defined. For Highland, we would note that coastal and water-side protections and mountain ascents should be included. This is needed *as well* as loch and canal side locations to be regarded as automatic criteria for protection.

In areas used for outdoor activities, including on inland lochs, canals and coastal areas, emergency services may be called out unnecessarily because an individual is unable to inform somebody that they are safely off water, due to lack of mobile signal. Protection of PCBs in such locations is therefore essential – in at least those areas which

are also subject to unreliable mobile signal.

Process:

Limiting persistent attempts at PCB removal - AGREE:

Highland Council welcomes the proposed duties for BT to retain relevant records for six years and for BT to demonstrate explicit regard for local authority representations in publishing its justification for removal decisions. This should reasonably prevent repeated attempts at removal of particular PCBs, where reasonable or emergency need has already been demonstrated. However, it is Highland Council's experience that BT has repeatedly sought to remove the same PCBs for which prior consultation has already demonstrated need for protection from removal, in accordance with existing Ofcom criteria. This has posed a recurrent and unreasonable burden on public sector resource and communities engaged by associated consultation.

We therefore regard it essential that updated requirements explicitly stipulate that protection of a call box is a barrier to any subsequent attempt to remove it until such time as there is a material change in circumstances, such as introduction of a new mobile signal tower to the area, or alternatively that removal will only be considered once during the six-year period for which BT will be required to retain relevant records.

Revocation of local authority veto on removal – CONCERN NOTED:

Highland Council's experience has been that BT does not regard the current local authority veto power as having any duration of effect, such as to limit subsequent repeat attempts at removal. Despite no change in material

circumstances which have shown need for protection of PCBs, BT has repeatedly sought to remove the same less-used, protected PCBs on a recurring, annual basis. We are deeply concerned by the proposal that review of decision making on removals be left entirely at the discretion of a BT board appointee and believe there is an imperative need for onward right of appeal from local authorities to Ofcom, as regulator, to oversee the review process proposed for BT. This must include review of procedural compliance and the correctness of individual decisions. This process needs to be transparent and clearly outlined.

Consultation on Responsibilities:
DISAGREE:

Onward right of appeal is particularly reasonable in acknowledgement that the entire process of protection and review of removal depends upon local authority resource and coordination. Duties remain upon local authorities to receive, compile and analyse relevant evidence from public representations on behalf of BT. This is typically a resource intensive exercise for the authority, sifting extensive public comment to identify relevant evidence on which boxes must be safeguarded, particularly for public safety. Community consultation is vital to identifying accident and suicide hotspots, for example.

In light of the proposals to remove the local veto from Local Authorities, it would appear proportionate and reasonable for BT to be responsible for its own consultation. In no other sphere is a Local Authority responsible for co-ordinating another agency's public consultation responsibilities – particularly when it has a public service obligation. This Council proposes that in the future, BT is responsible for co-ordinating, synthesising and the

conclusions of its own consultation. Local Authorities should remain required to respond and may seek wider community views to help inform its response but BT should be required to take responsibility for its own consultation.

Timescale for consultation on removals - DISAGREE:

Highland Council does not support the proposed reduction in timescale for consultation on removal proposals from 90 to 60 days. Governance of a legitimate response on behalf of a local government authority dictates opportunity for elected members of the Council to consider its content (as elected representatives of the communities affected by the proposals). This timescale must not be reduced, as to do so would diminish the legitimacy of the removal process by introducing an unnecessary and significant risk that such short timescales preclude opportunity for scrutiny of removal proposals by elected representatives.

Regulatory monitoring & enforcement - DISAGREE:

Clarity is required on the proposals for ongoing regulatory monitoring and enforcement. Highland Council has previously sought regulatory guidance from Ofcom as to exercise and effect of the veto. Ofcom was unable to identify a suitable person to discuss the concerns of a local authority, despite legal duties incumbent on the authority. This is highly concerning and indicative of wider need for clarification of how Ofcom will operate as regulator regarding payphone removals, particularly in light of the new process.

Proposals must introduce a right of appeal from local authorities to Ofcom on removal decisions. The process for this must be transparent. Proposals must also be revisited to provide

	<p>necessary detail on how regulatory enforcement will be triggered. This includes how Ofcom may exercise the proposed new power to compel reinstatement of call boxes which have been erroneously or inappropriately removed.</p> <p>To clarify how enforcement will be triggered, Highland Council propose introduction of the following additional requirements:</p> <ul style="list-style-type: none">• Ofcom's monitoring process be elaborated as to how it will identify and act on regulatory breaches, including reinstatement of call boxes.• That BT's proposed annual reporting to Ofcom include detailed reasoning for individual removal decisions. Reporting on this reasoning is essential for meaningful monitoring by Ofcom, which cannot otherwise be expected to be able to determine validity of individual removal decisions, purely on the basis of headline information such as total removals. Clarity is required on what monitoring Ofcom will undertake and what action they may take in specific circumstances if the monitoring highlights discrepancies or BT's failure to follow process or procedure.• Introduction of a local authority right of onward appeal to Ofcom on substantive removal decisions and procedural compliance, following BT's internal review. This requires explicit identification of a suitable Ofcom point of contact for local authorities and clarify and transparency on how the appeal process will work.
Question 3: Do you agree with our proposal to impose a new resilience obligation for PCBs? And do you	Confidential – N

agree with our proposed guidance that those PCBs which are more likely to be needed in the event of a power cut should have a solution which enables emergency calls to continue to be made for a minimum of three hours in the event of a power outage?

Please provide reasons for your view.

Highland Council agrees as to the importance of introducing an enhanced requirement of at least three hours of backup capability to power PCBs in the event of a power blackout – to ensure continuity of service necessary for public safety in the event of emergencies. However, we have significant concerns as to how key locations will be identified as requiring additional investment in backup power.

Identification of key PCB locations requiring backup power for network resilience:

The current proposals to ensure network resilience in the event of power cuts do not specify any mechanism through which the local authority and its key resilience partners (police, fire, mountain rescue, coast guard) may seek to inform or influence decision making on which call boxes require backup power to ensure effective use in the event of an emergency during a power cut.

This includes lack of adequate detail on the process for identification of the special sub-set of boxes which may require additional backup generator power, due to being located in areas which are particularly affected by power outages.

Detail must be introduced to provide a mechanism for local authority review of proposed selection of sites for introduction of backup power and whether this must be over three hours in duration. This is a matter of public safety and this decision making must be informed by evidence of local circumstances and information from the local authority, including susceptibility to power cuts and emergency need, to guide BT's decision making.

Process for local authority review of PCB network resilience may be

analogous to that through which the authority must be consulted on removal proposals. This must also include opportunity to request review of the decision and explicit requirements for reasoned decision making. As with removal decisions, this should also be subject to a right of onward appeal to Ofcom from the local authority, on the basis of material or procedural error in decision making.

Parity of requirements for backup power to mobile signal towers:

The proposals necessarily recognise that PCBs in some areas are more vulnerable to power cuts than others, and that this may have particular impact on ability to raise emergency services. Availability of mobile reception in such areas is proposed to do away with any requirement for emergency backup power to be installed in a PCB.

However, many mobile towers in remote rural areas of Highland are also prone to 'go down' during frequent power cuts. Prior community consultation on PCB removals has evidenced that in these circumstances, PCBs have been the only means of communicating with the wider world, including emergency services.

If availability of mobile signal is to be used as a criterion for determining whether backup power must be introduced to a PCB, it must first be incumbent on BT to evidence that at least three hours of backup power is in place as an emergency measure at relevant mobile masts covering the area.

Otherwise, there is a risk it may not be possible to contact or update emergency services in remote areas where responders could potentially take significant time to reach a caller – e.g. over one hour. It is the Council's understanding that many mobile masts

	<p>in remote areas may currently only provide one hour of backup power and that there may not be any obligation on operators to provide backup power at masts. No Ofcom guidance on requirements for backup power at mobile signal masts could be identified to inform broader understanding / offer comfort.</p> <p>Many mobile towers in remote rural areas of Highland are also prone to go down during frequent power cuts, during which PCBs are the only means of communicating with the wider world, including emergency services. More detail is required to provide confidence that backup power will ensure at least three hours of continuity of service across all areas, irrespective of whether through the PCB network or mobile network.</p>
<p>Question 4: Do you agree with the proposed amendments to the conditions on BT and KCOM in respect of considering requests for new PCBs?</p>	<p>Confidential – N</p> <p>No comment.</p>
<p>Question 5: Do you agree that it is no longer appropriate for the universal service obligations to require provision of fax services in light of the impact of IP migration on the functionality of these services?</p>	<p>Confidential – N</p> <p>No comment.</p>
<p>Question 6: Do you agree with our proposal to revoke the itemised billing requirement from the universal service conditions?</p>	<p>Confidential – N</p> <p>No comment.</p>
<p>Question 7: Do you agree with our proposed reporting requirements on BT and KCOM?</p>	<p>Confidential – N</p> <p>No. As outlined above, insufficient detail has been provided in the current proposals as to requirements of BT's reporting and associated powers for Ofcom to scrutinise and enforce compliance.</p>

Question 8: Do you agree with our proposed changes to tidy-up the wording and definitions used in the universal service conditions?

Confidential – N

No comment.