

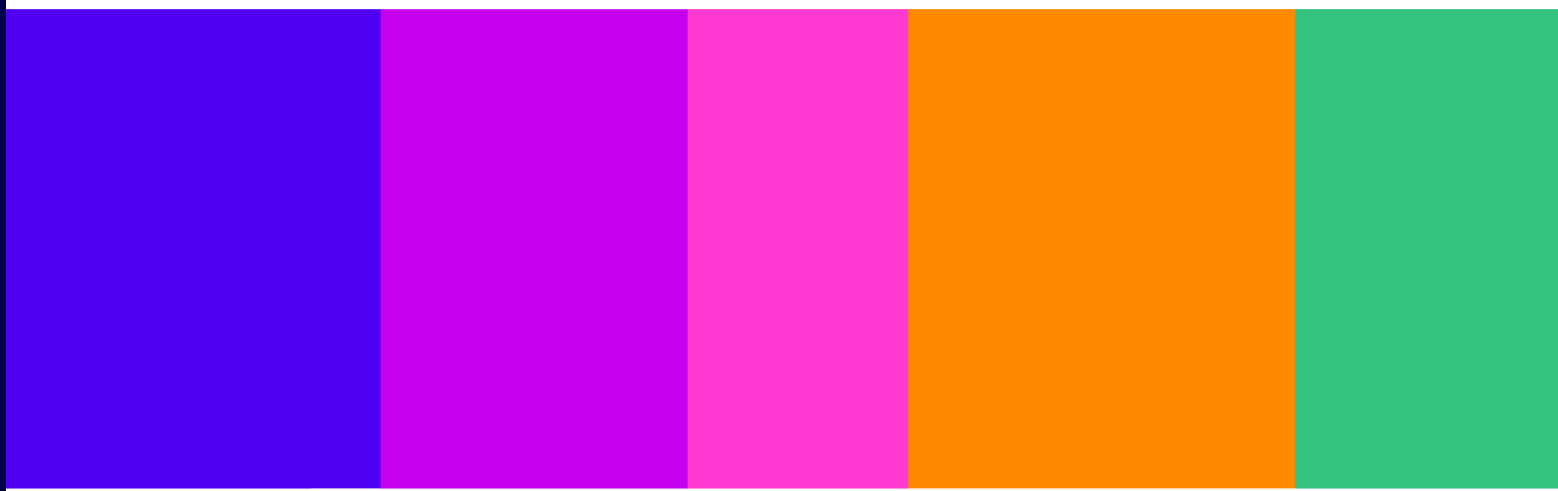
Local commercial radio licence renewals

Consultation on new provisions introduced
by the Media Act 2024

Consultation

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1. Overview

- 1.1 Ofcom issues local analogue (i.e. FM or AM) commercial radio licences for fixed periods, which are set out in legislation. At the end of a licence period the holder can apply to renew their licence. The period for which a licence can be renewed varies depending on when the licence was last granted following advertisement and/or how many times it has previously been renewed.
- 1.2 Until now, renewal has only been available if the holder of the analogue licence is also broadcasting a digital radio service on a relevant DAB multiplex. However, following the passage of the Media Act 2024 ('the Act'), a licensee can now also apply for renewal if there is not a 'suitable' DAB multiplex available. This consultation sets out how we propose to decide whether a multiplex is 'suitable'.

What we are proposing – in brief

The changes in the Act offer a new route for renewal of local analogue commercial licences to give all licence holders, including those who were previously unable to do so, an opportunity to apply.

We propose this new basis for renewal of a licence should be used only if:

- there is no relevant DAB multiplex available; or
- a relevant DAB multiplex is available but its coverage area is substantially larger or smaller than the area the licensee covers on FM or AM.

In all other circumstances, we expect licensees (as now) to apply for renewal by nominating a digital radio service on a relevant DAB multiplex.

The overview section in this document is a simplified high-level summary only. The proposals we are consulting on and our reasoning are set out in the full document.

2. Background

Licence renewal before the Media Act

- 2.1 From its launch in 1973 to the late 1990s, local commercial radio was available on analogue (AM and FM) frequencies only. Stations were granted licences for a specified period and had to re-apply for their licence in an open competition if they wanted to carry on broadcasting.
- 2.2 The development of DAB provided radio with a new platform to reach audiences; one which uses spectrum more efficiently and allows for a far greater number of radio stations to be made available to consumers. To encourage the radio industry to invest in this new platform, the statutory framework was changed by means of the Broadcasting Act 1996 to allow existing licensees to renew their analogue licence if they also broadcast on DAB. This regulatory incentive, together with new services being licensed, has enabled local commercial radio to remain a thriving sector which has a weekly audience of over 28 million listeners in the UK.
- 2.3 To apply for renewal, an analogue licensee must be providing a service on a ‘relevant’ local or small-scale DAB multiplex.¹ The licensee does not have to broadcast the same service on analogue and DAB to apply for renewal, although in practice this is often the case.
- 2.4 A ‘relevant’ multiplex is stated in the legislation to be a multiplex whose coverage area to a significant extent includes the coverage area of the local commercial analogue service.² Ofcom’s policy has been to consider a multiplex as ‘relevant’ for the purpose of a renewal application if it covers 25% or more of the adult population covered by the analogue licence in question. Depending on when it was first granted, a licence can be renewed up to four times, for a total of 34 years.³
- 2.5 Upon licence renewal, Ofcom is required to include a condition in the licence requiring the licensee to do all it can to ensure that a digital service is broadcast on a nominated multiplex throughout the renewed licence period.⁴ Failure to comply with this condition may result in revocation of the analogue licence.
- 2.6 The current procedure for renewing a licence is set out in our [Renewal procedure for local analogue licences](#).

Licence renewal post-Media Act

- 2.7 The process for renewing local analogue commercial radio licences described above remains in place; it has not been changed by the Media Act. However, the Media Act has

¹ Sections 104A and 104AA of the Broadcasting Act 1990 (as amended).

² Section 104A(13) of the Broadcasting Act 1990 (as amended).

³ Section 104A of the 1990 Act allows a licence to be renewed on one occasion for a twelve-year period, if it was last granted before 8 April 2010. Section 104AA allows for a licence to be renewed on three occasions, for periods of seven, five and ten years.

⁴ Section 104A(12) of the Broadcasting Act 1990 (as amended).

introduced an alternative statutory basis for licensees to renew their licence *in addition to* that already in place.

- 2.8 This new basis for renewal is set out in sections 104AA (4ZA) – (4ZC) of the Broadcasting Act 1990 (the ‘New Renewal Route’). It requires a licensee (in their application for renewal, or at any time before that application is considered) to make to Ofcom a:
- a) *Statement of explanation*. This is a statement that it has not been possible for the applicant to nominate a relevant DAB multiplex because of the lack of availability of a relevant local radio multiplex service, or of a relevant small-scale radio multiplex service, that is suitable for the applicant’s needs; and
 - b) *Statement of intent*. This is a statement that the applicant will nominate a relevant DAB multiplex as soon as it is reasonably possible to do so.
- 2.9 Ofcom can only renew a licence under the New Renewal Route where it is satisfied that it has not been possible for the applicant to nominate a relevant DAB multiplex because of the lack of availability of a relevant DAB multiplex which is suitable for their needs.⁵
- 2.10 Where Ofcom grants renewal of a licence in such a case, it must include a condition in the renewed licence requiring the licensee to do all that it can to ensure that it:
- a) makes the nomination described in the ‘Statement of intent’ as soon as it is reasonably possible to do so; and
 - b) starts broadcasting the nominated digital service, by means of the relevant DAB multiplex, as soon as reasonably possible after it has made that nomination.⁶
- 2.11 We are consulting on how we propose to consider applications for renewal under the New Renewal Route.

⁵ Section 104AA(4ZB)(b) of the Broadcasting Act 1990 (as amended).

⁶ Section 104AA(4ZC) of the Broadcasting Act 1990 (as amended).

3. Licence renewal procedures

Making renewal more widely available

- 3.1 As noted above, since the late 1990s one of the primary aims of the commercial radio licensing framework has been to incentivise investment in DAB as it makes more efficient use of limited and valuable spectrum and allows for greater choice for listeners.
- 3.2 Although listening and revenue continue to gradually migrate to other platforms, being able to apply for an uncontested extension of their analogue licence has given many commercial radio companies the stability and regulatory certainty needed to invest in DAB, and delivered significant benefits to consumers in terms of greater choice.
- 3.3 Many licensees have benefited from the existing statutory processes for licence renewal. For example, in certain circumstances Ofcom can extend an analogue licence by up to a year beyond its original expiry date to enable the licensee to meet the criteria for renewal (i.e. to be able to nominate a service on a ‘relevant’ multiplex).⁷ The existing framework also allows a licence to be renewed if the licensee is not providing a digital service, as long as there is evidence that it is contracted to do so.⁸
- 3.4 We have reflected this design in our own policies, which have sought to offer the benefits of licence renewal broadly. In particular, we have taken the view that a multiplex be considered as ‘relevant’ to an analogue licence if it covers at least 25% of the population served by the analogue licence. This policy has been in place since DAB started, and we have no plans to change it.
- 3.5 We have also adopted a general policy of renewing licences from the latest possible date, thus maximising the benefit to the licensee (as an earlier renewal date would result in an earlier expiry date).
- 3.6 The new provisions in the Media Act extend the opportunity of licence renewal to all holders of local analogue commercial radio licences, primarily those who have not previously been able to seek renewal of their licence(s) due to the lack of availability of a ‘relevant’ DAB multiplex in their area that is suitable for their needs.
- 3.7 In the [Explanatory Notes](#) for the Media Act,⁹ the Department for Culture, Media and Sport stated its expectation that “nearly all licences will be eligible for renewal ... on the basis that [the licensee] provide a local digital service” but the new renewal provision “reflects that there may be circumstances where a radio station intends to broadcast on digital but is not in a position to do so because a suitable digital multiplex service is not available in its broadcast area”.

⁷ Sections 104A(8) and (9) of the Broadcasting Act 1990 (as amended).

⁸ Section 104A(6) of the Broadcasting Act 1990 (as amended).

⁹ Explanatory Notes are prepared to assist readers in understanding a new Act of Parliament. They provide background information on the development of policy, but do not form part of the Act and are not endorsed by Parliament.

Providing a DAB service will continue to be the basis for the vast majority of licence renewals

3.8 When we grant licence renewals, we expect the vast majority will still be on the basis of DAB provision. As such, we propose to grant renewals of licences under the New Renewal Route in limited circumstances only, as follows:

No available multiplex

3.9 If there is no ‘relevant’ multiplex (local or small-scale) in relation to a particular local analogue licence, that licensee cannot seek renewal under the existing statutory provisions. We recognise that they should be able to apply for renewal under the New Renewal Route.

3.10 However, with local DAB multiplexes now licensed to serve nearly all parts of the UK (and the Channel Islands), and new small-scale multiplexes being licensed and launching regularly in localities throughout the UK,¹⁰ there are very few analogue licences which do not have a ‘relevant’ multiplex on which the licensee could provide a digital service as part of an application for renewal.

No ‘suitable’ multiplex

3.11 The legislation makes clear that, even if a ‘relevant’ multiplex is available, a licensee should be able to apply for renewal of their licence under the New Renewal Route if that multiplex is not ‘suitable’ for its needs. We have therefore considered whether there are any circumstances in which a multiplex that covers at least 25% of the population served by an analogue licensee may not be considered ‘suitable’.

3.12 Our provisional view is that there may be limited circumstances where a ‘relevant’ multiplex may not be suitable for an applicant’s needs if there is a substantial difference in the size of the coverage area – either in terms of population coverage or geographical coverage, or both – between that of the analogue service and that of the ‘relevant’ multiplex.

3.13 This is most likely to occur where the analogue service has relatively limited coverage and its only ‘relevant’ multiplex is a local (rather than small-scale) multiplex, as local multiplexes typically have significantly larger coverage areas than smaller analogue licences. In such circumstances, our provisional view is that the substantial amount of additional unwanted coverage provided by such a multiplex could make it unsuitable for the analogue licensee.

3.14 It may also be the case that, for some analogue licensees, the coverage offered by a ‘relevant’ small-scale multiplex is significantly lower than their own coverage area. If that is the only ‘relevant’ multiplex available to them, our provisional view is that it may not be suitable for their needs.

3.15 We would consider any applications for renewal under the New Renewal Route on a case-by-case basis, but are proposing that our focus should be on the extent of any difference in coverage between the analogue service and the ‘relevant’ multiplex. As analogue and DAB digital radio are different technologies some degree of difference is to be expected even where services have been licensed to cover broadly the same geographical area. This is reflected in the existing renewal provisions, which enable a multiplex to be ‘relevant’ even

¹⁰ The only areas of the UK without a local DAB multiplex are all in Scotland – Borders, Dumfries & Galloway and the Highlands. At the time of writing, 124 small-scale DAB multiplexes have been licensed, of which 67 are broadcasting.

if it does not provide coverage for a large proportion (i.e. 75%) of the analogue licence coverage area in question.

- 3.16 Taking this into account, we propose that the difference should need to be substantial before a licensee is able to benefit from the New Renewal Route (rather than, for example, there simply being a difference). This ensures that use of the existing renewal route, and the provision of digital services for listeners, is not undermined. It also reflects Parliamentary intention that nearly all licence renewals should continue to be on the basis that the licensee provide a local digital service (see paragraph 3.7 above).
- 3.17 As noted above, this is most likely to be the case where an analogue service covers a much smaller area than a 'relevant' local multiplex. As the majority of small-scale multiplexes have been planned on the basis that they can offer coverage which is broadly equivalent to that of a smaller-scale analogue commercial radio service (rather than that of a community radio service), our provisional view is that it is unlikely that there will be many, if any, circumstances in which a local analogue commercial radio licensee could successfully argue that a 'relevant' small-scale multiplex is unsuitable for their needs because its analogue coverage is substantially larger than the coverage of the multiplex.
- 3.18 It is unlikely we would accept there is no suitable multiplex for reasons solely of affordability, nor would we be likely to consider there is no suitable multiplex in cases where a licence has previously been renewed.

Question 1: Do you agree with our proposal that a 'relevant' local or small-scale multiplex should be considered 'unsuitable' in relation to an analogue service only if there is a substantial difference in the size of their coverage areas?

Question 2: Do you think Ofcom should consider any other factors (which we have not considered in this consultation) when determining whether a multiplex is suitable for a licensee's needs under the New Renewal Route?

A1. Impact assessments

Impact assessment

- A1.1 Section 7 of the Communications Act 2003 requires us to carry out and publish an assessment of the envisioned impact of implementing a proposal which would be likely to have a significant impact on businesses or the general public, or when there is a major change in Ofcom’s activities. Impact assessments help us to understand the policy decisions we have decided to take and why we consider those decisions best fulfil our applicable duties and objectives in the least intrusive way.¹¹
- A1.2 This consultation sets out our proposed approach to the New Renewal Route for local analogue commercial radio licences, introduced by the Media Act.
- A1.3 We are not seeking views on the impact of these new statutory provisions – that was done by the Government as part of the policy-making and legislative process. Rather, we have considered whether there are any particular impacts which may arise from the way we are proposing to apply the new statutory provisions.
- A1.4 In particular, the legislation leaves it to us to decide whether or not an analogue licensee can apply for renewal on the basis that it does not have a ‘suitable’ multiplex on which to provide a digital radio service.
- A1.5 We have set out our provisional view that the New Renewal Route should be used only if there is not a relevant DAB multiplex available at all, or a relevant DAB multiplex is available but there is a substantial difference in the size of the coverage areas of the relevant multiplex and the analogue service.
- A1.6 This is intended to secure that the vast majority of licences will continue to be renewed on the basis of DAB provision, in line with the Parliamentary intention as expressed in the Explanatory Notes to the Media Act. It recognises that the New Renewal Route has been designed specifically for those licensees for whom DAB provision may not be a practical option.
- A1.7 We do not consider our proposed approach will have any adverse impact on citizens and consumers. Our policy is designed to further the interests of citizens and consumers, as it means the vast majority of local analogue commercial radio licences will continue to be renewed on the basis of local DAB provision. This will support the continued provision of digital services for listeners, while maintaining continuity of analogue commercial radio provision.
- A1.8 If a larger number of analogue licensees were able to use the New Renewal Route because we were prepared to accept a broader range of reasons for a relevant multiplex not being suitable, this could adversely impact citizens and consumers as there is a risk that DAB provision would be reduced. This would mean fewer services for listeners, and would also be inconsistent with the intention of Parliament.

¹¹ Ofcom, [Impact assessment guidance](#), 2023.

Equality impact assessment

- A1.9 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 protected characteristics under the 2010 Act.¹² 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.
- A1.10 Ofcom has separate but complementary duties under Northern Ireland’s equality legislation.¹³ This requires Ofcom to screen policies for their impact on equality of opportunity and/or good relations in each of the nine equality categories identified for Northern Ireland.
- A1.11 We do not consider that the proposed policy approach set out in this consultation document would have any impact on persons sharing protected characteristics, or in particular that it would discriminate against such persons or impact on equality of opportunity or good relations.

Welsh language

- A1.12 The Welsh language has official status in Wales.¹⁴ To give effect to this, certain public bodies, including Ofcom, are required to comply with Welsh language standards in relation to the use of Welsh, including the general principle that Welsh should not be treated less favourably than English in Wales.¹⁵ Accordingly, we have considered the potential impact of our review on (i) opportunities for persons to use the Welsh language; and (ii) treating the Welsh language no less favourably than the English language.
- A1.13 We do not consider that our proposed policy approach would have any impact on opportunities to use the Welsh language, and treating the Welsh language no less favourably than the English language. We also do not consider that there is any way that our proposals could be formulated so as to have, or increase, a positive impact on the Welsh language.

¹² These protected characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

¹³ Section 75 of the Northern Ireland Act 1998.

¹⁴ Section 1(1), Welsh Language (Wales) Measure 2011.

¹⁵ The [Welsh language standards](#) with which Ofcom is required to comply are available on our website.

A2. Responding to this consultation

How to respond

- A2.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on **Wednesday 5 February 2025**.
- A2.2 You can download a response form from <https://www.ofcom.org.uk/tv-radio-and-on-demand/analogue-radio/consultation-local-commercial-radio-licence-renewals/>. You can return this by email or post to the address provided in the response form.
- A2.3 If your response is a large file, or has supporting charts, tables or other data, please email it to mediaact.part5@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet.
- A2.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Media Act Part 5 Consultation
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A2.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- > send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
 - > upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A2.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A2.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A2.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A2.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 5. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A2.10 If you want to discuss the issues and questions raised in this consultation, please contact mediaact.part5@ofcom.org.uk.

Confidentiality

- A2.11 Consultations are more effective if we publish the responses before the consultation period closes. This can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on the Ofcom website at regular intervals during and after the consultation period.
- A2.12 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A2.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A2.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website.
- A2.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

Next steps

- A2.16 Following this consultation period, Ofcom plans to publish a statement in Spring 2025.
- A2.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

Ofcom's consultation processes

- A2.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 3.
- A2.19 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A2.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

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

A3. Ofcom's consultation principles

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

Before the consultation

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

During the consultation

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

After the consultation

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

A4. Consultation coversheet

Basic details

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

Confidentiality

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

- > Nothing
- > Name/contact details/job title
- > Whole response
- > Organisation
- > Part of the response

If you selected 'Part of the response', please specify which parts:

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

Yes No

Declaration

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

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A5. Consultation questions

Question 1: Do you agree with our proposal that a 'relevant' local or small-scale multiplex should be considered 'unsuitable' in relation to an analogue service only if there is a substantial difference in the size of their coverage areas?

Question 2: Do you think Ofcom should consider any other factors (which we have not considered in this consultation) when determining whether a multiplex is suitable for a licensee's needs under the New Renewal Route?