

ITSPA Guidance on Uninterrupted Access to Emergency Services for Vulnerable Persons

About ITSPA

Founded in 2004, ITSPA is a membership-led organisation that represents predominantly network operators, service providers, resellers and other businesses involved with the supply of next generation communications to business and residential consumers within the UK.

ITSPA helps act as the voice for the sector to key stakeholders; ensures that standards created by or imposed on industry are fair; leads on developments of best practice; campaigns on key issues that members face, promotes competition and self-regulation and serves as the leading networking forum for the UK VoIP and next generation communications industry with events throughout the year.

Members also receive complimentary subscription to the dispute resolution scheme Ombudsman Services; summaries of Ofcom (and other) consultation papers; regulatory briefing documents; Government monitoring and intelligence reports; updates from legal professionals; anti-fraud information; and the opportunity to collaborate with peers to promote career development.

Background

In 2018, the Office of Communications (“**Ofcom**”) issued guidance on the interpretation of the obligation on providers for uninterrupted access to the emergency services, in the event of a power cut and specifically in context of vulnerable persons¹.

Some customers may self-identify and it becomes a question of validating their entitlement. Others will have to be pro-actively identified in order to secure compliance with this obligation.

The Power Cut Statement is not definitive; it does not dictate a rigid set of qualifying criteria, merely sets down a series of principles that have to be met. This means that each and every customer needs to be assessed for their vulnerability and then their need for a remedy based on their own individual circumstances.

This Guidance seeks to provide an outline of a process to catch the majority of persons in scope of the regulation, but its non-exhaustive.

Additionally, the obligations apply equally to businesses and domestic consumers. However, Ofcom have noted that a sense of proportionality is required in relation to businesses². In practice, this means that vulnerable sole traders and home workers are likely to be in scope, or an office in a not-spot with a vulnerable person, however, traditional business premises are unlikely to be in scope with the onus on the employer to provide appropriate resilience.

There is no specific statutory definition of vulnerable. Indeed, each regulatory body or government department with an interest in the subject has a subtly different approach to the matter.

The Ofcom website³ has this to say about consumer vulnerability (summarised):

Some consumers of communications are, due to their circumstances, vulnerable to financial detriment (e.g. mis-selling), isolation from family and friends, and/or inability to participate in wider society.

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0016/123118/guidance-emergency-access-power-cut.pdf [accessed 6th November 2018] (the “**Power Cut Statement**”)

² Power Cut Statement §3.43-3.45

³ <https://www.ofcom.org.uk/about-ofcom/what-is-ofcom/consumer-vulnerability> [accessed 6th November 2018]

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Vulnerable customers and groups include "those who are disabled, elderly, on low incomes or living in rural areas, as well as [...] any others whose circumstances appear to put them in need of special protection."

Another trade association’s definition⁴ is:

"people who find it difficult to make an informed decision about the choices offered to them – choices such as changing a utility supplier or making a charitable donation. This may be those who have a diagnosed condition like dementia; those who have an undiagnosed or temporary mental health condition such as severe anxiety; those with learning difficulties or literacy issues; or those who have problems understanding the language"

It should also be noted that vulnerability is not a static state and can change over time.

Taking into consideration the above, Ofcom’s prior consultation and subsequent guidance on services for disabled people⁵, and a number of other references, ITSPA has adopted the following definition:

A vulnerable customer is one whose circumstances make them more vulnerable to financial detriment or social isolation than a typical customer. These circumstances could include old age, physical or mental disability, low income, geographical location, language problems, bereavement, or any other circumstance or condition which causes impairment.

However, once defined, there are two further steps.

1. Identifying vulnerable prospects and customers.
2. Assessing whether their vulnerability makes them more dependent on their landline for access to the emergency services than they would otherwise be.

We take these in turn.

Identifying Vulnerable Prospects and Customers

Key words and phrases when interacting with customers may be used to help recognise those with needs and vulnerability. Below is a non-exhaustive list of key words that Ofcom identified⁶.

accessible	dexterity	autism	paralysed
accessibility	mobility	dyslexia	large format bill(s)
disability	physical disability	mental health	through-connection
disabilities	visual impairment	wheelchair	long term hospital stay
disabled	visually impaired	third party bill	hospital
blind	sight loss	third party	carer
blindness	SignVideo	bill management	care worker

⁴ https://dma.org.uk/uploads/call-centres-vulnerable-consumers_final_53d7c237289c1.pdf [accessed 6th November 2018] page 3.

⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0015/81132/guidance.pdf [accessed 6th November 2018]

⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0015/81132/guidance.pdf [accessed 6th November 2018]

deafness	Sign Video	priority repair	care assistant
hearing	NGTS	priority repair service	manage account
hearing loss	Next Generation Text service/relay	text emergency services	managing your account
hearing aid	textphone(s)	free directory enquiries	General Condition (of Entitlement) C5
impairment	text relay	blue badge	
hearing impairment	video relay	disablement	
hearing impaired	screen reader	impaired	
hearing loop	sign language	impediment	
braille	British Sign Language	learning difficulty	
large print	BSL	learning disability	

There is also some help from the recent Guidance for communications providers in the Power Cut Statement:

Customers can be identified [...] because, for example:

- *they have more of a propensity to contact emergency organisations [...];*
- *they are registered (or indicate a need for) some of the measures set out in General Condition C5 such as:*
 - *Priority Fault Repair Service;*
 - *bills and contracts in alternative formats such as large print and Braille;*
 - *third party bill management;*
 - *free directory enquiries;*
- *they have a telecare system (or similar);*
- *they use a textphone on a fixed line;*
- *they are signed up to network controlled calling and/or 123 or 118 barring (or similar);*
- *they have been identified as a person within scope of the Chronically Sick and Disabled Persons Act 1970; [...]*

The precise mechanism for identifying a vulnerable prospect or customer will be dependent on the brand image and means of contact for each individual provider, however, listening for certain keywords as listed above, or searching for the characteristics shown herein, will likely provide a majority of persons deemed to be “vulnerable”.

Identifying Reliance on a Landline

Once a person has been identified as vulnerable, the second step is to identify whether they have a greater reliance on their landline – specifically a landline that doesn’t have power provided by the local exchange and/or with network terminating equipment that can run independently of mains electricity.

Again, the Power Cut Statement provides some guidance on the matter:

- *[...] increases the risk that they would rely on their landline in a power cut;*
- *they identify as having a disability or accessibility requirement that would indicate they are more reliant on their landline;*
- *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*
- *they do not own a mobile; or*

- they own a mobile but have limited or no mobile signal in their homes (on any network) and Voice over WiFi does not connect to the emergency services.

This part of the process is about identifying that they are more, or exclusively, reliant on the landline for access to the emergency services.

For example, a vulnerable individual that has a mobile with acceptable signal will not be in scope of these requirements. A vulnerable individual in a mobile not-spot, would be in scope.

Process

This is non-exhaustive, because the entitlement is engineered to be contingent on individual circumstances, however, meeting one of these criteria will class them as vulnerable:

Determinative

1. They have more of a propensity to contact emergency organisations than the average person;
2. They are registered (or indicate a need for) some of the measures set out in GC C5;
3. They have a telecare system (or similar);
4. They use a textphone on a fixed line;
5. They have been identified as a person within scope of the Chronically Sick and Disabled Persons Act 1970.

Indicative

1. They are signed up to network-controlled calling and/or 123 or 118 barring (or similar).

Specifically, this last point is taken as being indicative because the protection is there to “*support customers who may have short-term memory loss, learning difficulties, dementia or an Obsessive Compulsive Disorder*”⁷. However, it is an anti-fraud or mis-use mechanism for the general public too. Identifying this in isolation should be a trigger for more extensive investigation of the users’ needs but is not automatically determinative of vulnerability.

Then the second stage is relatively simple and only required if they are identified as vulnerable.

Qualification

1. Is the landline their only means of contacting the emergency organisations?
2. Would that access be unavailable in the event of a power cut?

Both questions must be a yes in order to qualify for the remedy. Note that as BT makes changes to the PSTN, or as the end user upgrades services or changes suppliers for part of their infrastructure, this may change, and the end user must be informed to engage with their voice supplier if any of the equipment or service changes, prior to it changing.

The nature and design of the required remedy is subject to a separate guidance document.

⁷ Power Cut Statement FN55

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