

Draft Commission 111 contact code

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Associated documents

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Introduction to the Commission 111 contact code

As consumers transition away from using traditional copper voice services to new telecommunications technologies, they may be unable to contact the 111 emergency services during a power failure at their premises. This is because some new telecommunications technologies will not work in a power failure (such as fibre or fixed wireless). Calling 111 is the primary means to request emergency assistance from the ambulance, police and fire and emergency services.

This Code recognises a subset of consumers who are more likely to need to contact the 111 emergency services (for example, due to health (eg, a known medical condition), disability or safety reasons) and do not have a means to do so in the event of a power failure. For the purposes of the Code, these consumers are called vulnerable consumers.

The Code sets out mandatory requirements on providers of certain telecommunications services to provide vulnerable consumers with appropriate means of contacting the 111 emergency service in the event of a power failure. The Code also requires these providers to disclose certain information to the Commission each year (such as how many vulnerable consumers that provider has).

The Code primarily affects current and future vulnerable consumers of retail landline services, and their retail providers.

The Code is administered by the Commerce Commission. More information about the Commission 111 contact code can be found on the Commission website here:

<https://comcom.govt.nz/regulated-industries/telecommunications/projects/commission-111-contact-code>.

A. Commencement date

1. This Code comes into force on [xx 2020].

Reference: Telecommunications Act 2001, section 238(2).

B. Application

2. This Code applies to retail landline services.

Reference: Telecommunications Act 2001, section 238(3)(a).

C. Purpose

3. The purpose of this Code is to ensure that vulnerable consumers, or persons on their behalf, have reasonable access to an appropriate means to contact the 111 emergency service in the event of a power failure.

Reference: Telecommunications Act 2001, section 238(1).

D. Defined terms

4. In this Code, unless the context otherwise requires,—

111 emergency service	includes the ambulance service, police service and fire and emergency service;
Act	means Telecommunications Act 2001;
Code	means Commission 111 contact code;
Commission	means Commerce Commission;
consumer	has the same meaning as given in section 232 of the Act, and, in the case of a retail landline service, includes: (a) the customer; and (b) a person who ordinarily resides at the premises where the retail landline service is supplied to;
consumer's application	means an application made by a consumer of a retail landline service (or someone on behalf of that consumer), to a provider for the purposes of demonstrating that: (a) the customer is (or will become) a vulnerable consumer; or

(b) a person who ordinarily resides at the customer's premises is (or will become) a vulnerable consumer;

copper landline service	means a landline service provided over a copper line using traditional analogue copper voice technology, but excludes any voice service that is provided using technologies (hardware or software) that rely on mains powered electricity at the premises;
customer	means a consumer who has a contract with a provider for the supply of a retail landline service;
financial year	means a period of 12 months beginning on 1 July in any year and ending on 30 June in the following year;
minimum period	means a continuous 12-hour period;
naked broadband services	means a broadband service provided over a fixed-line or fixed wireless access technology that is provided without a voice service;
network	has the same meaning as given in section 5 of the Act;
Notice of Potential Medically Dependant Consumer (MDC) Status	means the form provided at Appendix A of the Electricity Authority's 'Guidelines on arrangements to assist medically dependant consumers', and is available from the Electricity Authority's website here: https://www.ea.govt.nz/operations/retail/retailers/retailer-obligations/medically-dependant-and-vulnerable-customers/
landline service	means a voice service provided over a fixed-line or fixed wireless access technology;
power failure	means an interruption in the supply of electricity to a premises;
person of standing in the community	means a professional person or a person of standing in the community, and includes any of the following persons: <ul style="list-style-type: none">(a) lawyers (with a current practising certificate);(b) chartered accountants;(c) University lecturers and professors who know you outside of university or in the capacity of an employer;(d) senior staff of organisations that provide a social service (such as Women's Refuge);

- (e) Elders or pastors from a church, temple, mosque or synagogue;
- (f) Justices of the Peace;
- (g) serving members of the armed forces;
- (h) serving police officers;
- (i) senior government officials;
- (j) members of Parliament; and
- (k) currently registered:
 - (i) authorised financial advisers;
 - (ii) marriage celebrants;
 - (iii) pilots;
 - (iv) dentists;
 - (v) medical doctors;
 - (vi) engineers;
 - (vii) nurses;
 - (viii) teachers;
 - (ix) legal executives;
 - (x) physiotherapists;
 - (xi) mental health workers, including psychologists;
 - (xii) veterinary surgeons;
 - (xiii) social workers; and
 - (xiv) occupational therapists;

provider means a supplier or suppliers of a retail landline service;

premises means a house or building, together with its land and outbuildings, that is used or intended for occupation by any person;

retail landline service means a landline service provided to a consumer at a premises, and excludes:

- (a) mobile services;
- (b) naked broadband services; and
- (c) applications that provide voice services over broadband services (such as Skype);

telecommunication means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not;

telecommunications service means any goods, services, equipment, and facilities that enable or facilitate telecommunication; and

vulnerable consumer has the meaning given in clause 9.

E. Requirement on providers to inform customers about options available for vulnerable consumers

5. A provider must inform its customers of the options available for vulnerable consumers to contact the 111 emergency service in the event of a power failure at the customer's premises.
6. For the purposes of clause 5, the information must specify:
 - 6.1 what telecommunications technologies may not work in a power failure (including cordless phones and medical alarms if they do not have an inbuilt battery), and the impact this may have on a consumer's ability to contact the 111 emergency service;
 - 6.2 alternative means of contacting the 111 emergency service in the event of a power failure;
 - 6.3 who is a vulnerable consumer for the purposes of the Code, including the definition of a vulnerable consumer and the process a consumer may follow to demonstrate they are a vulnerable consumer;
 - 6.4 that a provider must supply a vulnerable consumer, at no cost to that consumer, with an appropriate means of contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure at the vulnerable consumer's premises;
 - 6.5 that a provider cannot deny or cease supply of a retail landline service on the basis that the provider knows or suspects a consumer is, or may become, a vulnerable consumer;
 - 6.6 how a vulnerable consumer can contact the provider if that consumer considers they are no longer vulnerable;
 - 6.7 how a consumer can contact the provider to discuss any of the information provided (including whether they, or someone they know, may be a vulnerable consumer); and
 - 6.8 how a consumer may make a complaint in relation to a matter arising under the Code, including that:
 - 6.8.1 a dispute between a consumer and a provider about their rights and obligations under the Code may be referred to the Telecommunications Dispute Resolution Scheme by any parties to the dispute; and
 - 6.8.2 a consumer may, at any time, make a complaint to the Commerce Commission regarding the provider's compliance with the Code.

7. For the purposes of:
 - 7.1 clauses 6.1 and 6.2, this information must also be provided to a person when they first contract with a provider for the supply of a naked broadband service; and
 - 7.2 clause 6.3, the information must note the existence and purpose of the form provided at Appendix A, and ensure the form is readily available to consumers.
8. The information listed in clause 6 must be provided to consumers in the following ways:
 - 8.1 made easily accessible to all consumers on the provider's website and through customer service representatives over the phone or in retail stores at all times;
 - 8.2 provided in writing in an easily discernible manner to all customers of a retail landline service within one month of the Code coming into force and at least once a year thereafter; and
 - 8.3 provided in an easily discernible manner to all customers of a retail landline service when:
 - 8.3.1 the customer first contracts with the provider for the retail landline service;
 - 8.3.2 the customer switches between telecommunications technologies with the provider; and
 - 8.3.3 the customer switches between telecommunications services with the provider.

Reference: Telecommunications Act 2001, sections 238(3)(b).

F. Process for a consumer to demonstrate they are a vulnerable consumer

F1 Definition of a vulnerable consumer

9. A vulnerable consumer means a consumer of a retail landline service, who:
 - 9.1 is at particular risk of requiring the 111 emergency service (for example, due to a known medical condition); and
 - 9.2 does not have a means for contacting the 111 emergency service that can be operated for the minimum period, in the event of a power failure.

Reference: Telecommunication Act 2001, section 238(5).

F2 Process for a consumer to demonstrate they are a vulnerable consumer

10. A provider must make available a process for a consumer, or someone on their behalf, to apply to the provider to demonstrate that consumer is (or will become) a vulnerable consumer.
11. If a provider accepts a consumer's application, the consumer who is the subject of that application is a vulnerable consumer of that provider.
12. For the purposes of clause 10, the process made available must comply with the following requirements:
 - 12.1 the process must:
 - 12.1.1 be made easily accessible for consumers;
 - 12.1.2 not be unreasonably difficult for a consumer to fulfil; and
 - 12.1.3 be made available within one month of the Code coming into force;
 - 12.2 where a consumer makes an application to a provider, a provider must:
 - 12.2.1 make reasonable efforts to progress that application in a timely manner;
 - 12.2.2 accept the application if the consumer who is the subject of the application:
 - (a) is a consumer of a retail landline service;
 - (b) is at particular risk of requiring the 111 emergency service; and
 - (c) does not have a means for contacting the 111 emergency service at their premises that can be operated for the minimum period in the event of a power failure;
 - 12.3 a consumer of a retail landline service must be deemed to be at particular risk of requiring the 111 emergency service if:
 - 12.3.1 the consumer, or someone on their behalf, has completed Part A of the application form provided at Appendix A, or a form that provides at least the equivalent detail as Part A;
 - 12.3.2 and either:
 - (a) the consumer provides a completed 'Notice of Potential Medically Dependant Consumer (MDC) Status' form, which includes a certification from a District Health Board (DHB), private hospital or GP; or

- (b) a person of standing in the community has certified the application form provided at Appendix A (Part B of the form provided at Appendix A), and that certification complies with any requirements placed on that certification in accordance with clause 12.4;
- 12.4 a provider may, after a period of 12 months or more from the last certification of a consumer's application, require the application to be recertified by a person of standing in the community (if the consumer does not do so, the provider may no longer regard that consumer as a vulnerable consumer in accordance with clause 20.2);
- 12.5 a provider may require a consumer's application to be resubmitted to the provider if that consumer no longer lives at the premises where the retail landline service is being supplied to (if the application is not resubmitted, the provider may no longer regard that consumer as a vulnerable consumer in accordance with clause 20.3); and
- 12.6 a consumer must be deemed to have a means for contacting the 111 emergency service at their premises that can be operated for the minimum period in the event of a power failure if any of the following circumstances apply:
 - 12.6.1 the consumer's premises receives a copper landline service; or
 - 12.6.2 the consumer has unrestricted access to a mobile phone and that consumer's premises has adequate mobile phone coverage.

Reference: Telecommunications Act 2001, section 238(3)(c) and 4)(b).

G. Requirement on providers to provide vulnerable consumers with an appropriate means for contacting 111

G1 Requirement to provide appropriate means

- 13. A provider must supply a vulnerable consumer with an appropriate means for contacting the 111 emergency service in the event of a power failure at the vulnerable consumer's premises.
- 14. For the purposes of clause 13, an appropriate means is a means that is appropriate for the specific circumstances of a vulnerable consumer (eg, the consumer's physical, mental or technical capabilities).
- 15. A provider must ensure that any means supplied to a vulnerable consumer is:
 - 15.1 supplied as soon as reasonably practicable;
 - 15.2 supplied at the premises where the retail landline service is supplied;

- 15.3 able to be operated at that premises for the minimum period in the event of a power failure;
 - 15.4 supported for the duration of the contract for the retail landline service, including ensuring the means is regularly and appropriately maintained, except where the vulnerable consumer ceases to be a vulnerable consumer in accordance with clause 20; and
 - 15.5 where applicable, provided with clear instructions and guidance on how to operate the means and who to contact if there are any issues.
16. A vulnerable consumer must not bear any costs relating to the supply of an appropriate means for contacting the 111 emergency service, which includes any costs related to the following:
- 16.1 provision of the means for contacting the 111 emergency service, including:
 - 16.1.1 any costs related to the acquisition or installation of any hardware or device;
 - 16.1.2 where provision of the appropriate means requires an additional connection to a network, any ongoing costs related to maintaining that additional connection;
 - 16.2 maintenance or replacement of the provided means for contacting the 111 emergency service (eg, because the means fails to work, or is being substituted for another means); and
 - 16.3 recovery or disposal of the provided means for contacting the 111 emergency service.

Reference: Telecommunications Act 2001, sections 238(3)(d).

G2 Limit on provision of appropriate means

- 17. A provider is only required to provide, at any one time, one means for contacting the 111 emergency service per premises.
- 18. If there is more than one vulnerable consumer at a premises, the means provided must be appropriate for all of the vulnerable consumers at that premises.

Reference: Telecommunications Act 2001, section 238(4)(c).

G3 Requirement to monitor

- 19. A provider must, at least once a year, contact each customer that is a vulnerable consumer, or has a vulnerable consumer at their premises, to:

- 19.1 ensure that the means it has provided to the vulnerable consumer remains appropriate and functional; and
- 19.2 enquire whether the consumer's circumstances may have changed in any of the ways described in clause 20 below.

Reference: Telecommunications Act 2001, section 238(4)(c).

H. Circumstances where a consumer may no longer be considered vulnerable

- 20. A provider is permitted to regard a consumer as no longer being a vulnerable consumer in any of the following circumstances:
 - 20.1 where a consumer (or someone on their behalf) requests that they no longer be regarded as a vulnerable consumer;
 - 20.2 a consumer has been asked by the provider to have an application recertified in accordance with clause 12.4 and the consumer has not done so; and
 - 20.3 a provider has asked for a consumer's application to be resubmitted in accordance with clause 12.5 and the application has not been resubmitted.
- 21. For the purposes of clause 20.1, the consumer has a responsibility to inform its provider if they consider they are no longer a vulnerable consumer (or will no longer become one).

Reference: Telecommunications Act 2001, section 238(4)(c).

I. Requirement on provider to not withdraw service

- 22. A provider must not deny, or withdraw, supply of a retail landline service to a consumer on the basis that the provider knows or suspects the consumer is (or may become) a vulnerable consumer.

Reference: Telecommunications Act 2001, section 238(4)(c).

J. Requirement on providers to disclose information

- 23. No later than 1 month after the end of each financial year, a provider must disclose to the Commission the following information in respect of the preceding financial year:
 - 23.1 a description of the process the provider has implemented for the purposes of satisfying the requirement to provide the information listed in clause 6 in the ways required by clause 8, and supporting evidence;

- 23.2 a description of the process the provider has implemented for the purposes of satisfying the requirements in clause 12, and supporting evidence;
- 23.3 the number of vulnerable consumers the provider has (as at the date of disclosure);
- 23.4 the number of customers (ie customers of a retail landline service) the provider has (as at the date of disclosure);
- 23.5 the number of persons who have successfully demonstrated that they are (or will become) a vulnerable consumer, and what appropriate means of contacting the 111 emergency service the premises where the vulnerable consumer resides has been (or will be) supplied with; and
- 23.6 the average number of working days from the point at which a consumer's application is submitted to the point at which the vulnerable consumer is provided with appropriate means to contact the 111 emergency service.

References: Telecommunications Act 2001, section 238(4)(c).

K. Requirement on providers to keep records

- 24. Subject to clause 25, a provider must at all times maintain an accurate record of the following information:
 - 24.1 any communication between the provider and the consumer undertaken for the purposes of the requirements in clauses 7.1, 8.2 and 8.3;
 - 24.2 any communication between the provider and the consumer undertaken for the purposes of the requirement in clause 19.1; and
 - 24.3 any person who did not demonstrate to the provider that they are a vulnerable consumer (eg, they did not meet the requirements in clause 12.2.2, or ceased to be a vulnerable consumer for one of the reasons listed in clause 20).
- 25. A provider is permitted to stop maintaining a record of the information required under clause 24 in the following circumstances:
 - 25.1 for the purposes of clauses 24.1 and 24.2, if the contract between the customer (ie the customer at the premises where the retail landline service is supplied to) and the provider is terminated and a period of 5 years or more has passed since the termination of the contract; or
 - 25.2 for the purposes of clause 24.3, if the consumer did not demonstrate to the provider that they were a vulnerable consumer and a period of 5 years or more since that point in time has passed.

L. Dispute resolution

26. Where a dispute is referred to the Telecommunications Dispute Resolution Scheme, sections 241-245 of the Act apply.
27. For the avoidance of doubt:
 - 27.1 only a customer or a provider may refer a dispute under the Code to the Telecommunications Dispute Resolution Scheme;
 - 27.2 if a dispute under the Code concerns a consumer who is not the customer (ie they are a person who ordinarily resides at the customer's premises), the customer at the premises where the consumer resides may refer the dispute to the Telecommunications Dispute Resolution Scheme on behalf of that consumer; and
 - 27.3 a dispute under the Code may be referred to the Telecommunications Dispute Resolution Scheme at any time after the dispute arises.
28. Disputes arising under this Code that may be referred to the Telecommunications Dispute Resolution Scheme include, but are not limited to, disputes regarding the following matters:
 - 28.1 a consumer's application to a provider to be a vulnerable consumer; and
 - 28.2 whether the means of contacting the 111 emergency service supplied, or intended to be supplied, by the provider to the vulnerable consumer is an 'appropriate means' for that vulnerable consumer (in accordance with clause 14).

References: Telecommunications Act 2001, sections 240(1)(a) and 241-245.

M. Amendment or revocation of the Code

29. The Commission may amend or revoke the Code if the Commission considers that the Code no longer meets all the requirements set out in Part 7 of the Act.
30. For the purposes of clause 29, where the Commission seeks to amend or revoke the Code, it must apply the procedure set out in section 236(1)-(4) of the Act, with any necessary modifications.
31. The Commission must give public notice of every amendment or revocation of the Code.

Reference: Telecommunications Act 2001, section 239(5)-(7).

APPENDIX A – DRAFT APPLICATION FORM TO BE CONSIDERED A VULNERABLE CONSUMER

[Draft] 111 Contact Code customer application form

This application form should be completed by customers (ie the account holder), or someone who lives at a customer's house, if they want their telecommunications provider to consider them to be covered by the 111 contact code. The form can also be completed by someone else, on behalf of the customer or the person who lives at the customer's house.

[Provider logo
(optional)]

The 111 contact code ensures that people who are more likely to need to contact 111, and who have a home phone line that doesn't work in a power failure (with no other means of contacting 111 at their house), are provided with a means to contact the 111 emergency service.

How to complete the form

1. Fill in Part A of the form.
2. Get a person of standing in the community to fill out Part B of the form.
3. Return the completed form to *[insert provider's contact details]*.

Part A: Personal details

1. Are you the customer?

- Yes (**Go to Q2**)
- No (**Go to Q3**)

2. Are you making this application for yourself, or on behalf of someone else?

- I am applying to be covered by the 111 contact code (**fill out 4a and 4d**)
- I am applying on behalf of someone else (**fill out 4a, 4c and 4d**)

3. Since you are not the customer, are you making this application for yourself, or on behalf of someone else?

- I am applying to be covered by the 111 contact code (**fill out 4a, 4b and 4d**)
- I am applying on behalf of someone else (**fill out 4a, 4b, 4c and 4d**)

4a. Details of customer

Details of customer	
First name(s):	Preferred first name (if different):
Surname or family name:	
Salutation: <input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other, please specify	
What is the customer/household account number (or equivalent) with the provider?	
What is the address receiving phone service?	
Flat Street name	
Suburb	
City	
Postcode	

4b. Please only fill out this section if you are not the customer

Details of person making the application	
First name(s):	Preferred first name (if different):
Surname or family name:	
Salutation: <input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other, please specify	

4c. Please only fill out this section if you are applying on behalf of someone else

Details of person who wants to be covered by the 111 contact code	
First name(s):	Preferred first name (if different):
Surname or family name:	
Salutation: <input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other, please specify	

4d. Contact details (person who will receive correspondence about this application)

*Please provide contact details for how we can contact you to discuss the application.

If you are applying on behalf of someone else, please only provide your contact details in this section.

Telephone:	Mobile:
Email address:	
Postal address:	
City/Town:	Postcode:

What is the preferred method of contact (please tick a box)?

Home phone Mobile Mail Email

PART B: General information and declaration

This declaration must be completed by a person of standing in the community.

B1 General information

Who is a person of standing in the community?

A 'person of standing in the community' means a professional person or a person of standing in the community, and includes any of the following persons:

- lawyers (with a current practising certificate);
- chartered accountants;
- university lecturers and professors who know you outside of university or in the capacity of an employer;
- senior staff of organisations that provide a social service (such as Women's Refuge);
- elders or pastors from a church, temple, mosque or synagogue;
- justices of the peace;
- serving members of the armed forces;
- serving police officers;
- senior government officials;
- members of Parliament; and
- currently registered:
 - authorised financial advisers;
 - marriage celebrants;
 - engineers;
 - nurses;
 - teachers;
 - physiotherapists;
 - mental health workers, including psychologists;

- pilots;
- dentists;
- medical doctors
- legal executives;
- veterinary surgeons;
- social workers; and
- occupational therapists;

What does 'at particular risk of requiring the 111 emergency service' mean?

There is no set definition for this. It is for the person of standing in the community to assess whether, in their own opinion, they consider the consumer is at particular risk of requiring the 111 emergency service. An example of who may be considered 'at particular risk of requiring the 111 emergency service', is a consumer who needs to contact the 111 emergency service for health (eg, a known medical condition), disability or safety reasons.

The following scenarios illustrate some situations where a person may be considered 'at particular risk' under the 111 contact code.

Scenario one

Mary and Joe are pensioners living together. These days Joe is unsteady on his feet. He has fallen over a couple of times recently. Mary is active but spends most of her time at home looking after Joe. Mary is worried that the next time Joe falls he might seriously injure himself.

Scenario two

Tane is a farmer in the rural Far North. The farm is remote. Tane is usually on his own. He drives a quad bike to get around and sometimes uses heavy machinery.

Scenario three

Fatima has type 2 diabetes and is in the early stages of dementia. Fatima needs to take medication every day to manage her conditions.

Scenario four

Jennifer's father has moved back into the family home. He's been verbally and physically abusive to family members in the past and Jennifer is worried that it might happen again.

What is the 111 emergency service?

The 111 emergency service includes the ambulance service, police service and fire and emergency service.

What is the 111 contact code?

The purpose of the 111 contact code is to ensure that consumers who are at particular risk of requiring the 111 emergency service, and do not have a means for contacting the 111 emergency service, have reasonable access (or persons on their behalf do) to an appropriate means (eg, a mobile phone) to contact the 111 emergency service in the event of a power failure. The 111 contact code is administered by the Commerce Commission. More information on the 111 contact code, and a copy of the 111 contact code, is available on the Commerce Commission's website here: <https://comcom.govt.nz/regulated-industries/telecommunications/projects/commission-111-contact-code>.

Who should I contact if I have any questions about the declaration?

Please contact us at [*insert provider's contact details*] if you have any questions about the declaration, or the 111 contact code more generally.

Alternatively, you can contact the Commerce Commission at contact@comcom.govt.nz, or phone the Commission's Enquiries team on 0800 943 600.

B2. Declaration

I

(Insert full name)

of

(Insert contact address)

acknowledge and declare that:

- I am a person of standing in the community.

- My occupation is

- I consider that

(Insert full name of person)

is at particular risk of requiring the 111 emergency service.

Signed:

Date (DD/MM/YYYY):