

Commission 111 Contact Code 2024

Decisions and Reasons Paper

Amendments made under section 239 of the Telecommunications Act 2001

The Commission: Tristan Gilbertson
Pierre van Heerden
Nathan Strong
Loretta Lovell

Date of publication: 26 June 2024



Associated documents

Publication date	Reference	Title
17 November 2020	ISBN 978-1-869458-52-2	Commission 111 Contact Code
17 November 2020	ISBN 978-1-869458-53-9	Final Decisions and Reasons paper
18 May 2023	ISBN 978-1-991085-00-9	Request for views paper
18 December 2023	ISBN 978-1-991085-62-7	Draft Commission 111 Contact Amendment Code 2023
18 December 2023	ISBN 978-1-991085-63-4	Draft Decisions and Reasons paper
26 June 2024	ISBN 978-1-991287-44-1	Commission 111 Contact Code 2024
26 June 2024	ISBN 978-1-991287-43-4	Commission 111 Contact Code (Amendment Version 2024)

Glossary

Table of terms and abbreviations	
ACA	Aged Care Association New Zealand
Age Concern	Age Concern New Zealand
Act	Telecommunications Act 2001
Bupa	Bupa Villages and Aged Care New Zealand
Code	The Commission 111 Contact Code (2024)
Commission	Commerce Commission
DPA	Disabled Persons Assembly
Facilities	Residential care or assisted living facilities, including but not limited to retirement villages, rest and nursing homes, long-stay hospitals, dementia units and psychogeriatric units
FWA	Fixed Wireless Access
H&D Act	The Health and Disability Services (Safety) Act 2001
NZ Police	New Zealand Police
Code	The 111 Contact Code published in November 2020 which came into effect in February 2021 (section G (now section H) of the Code came into effect in August 2021)
Provider	A supplier or suppliers of a retail residential landline services to a consumer
Retirement Villages Act	Retirement Villages Act 2003
RVA	Retirement Villages Association
RWNZ	Rural Women New Zealand
Ryman	Ryman Healthcare Limited
Summerset	Summerset Group Holdings Limited
TCF	New Zealand Telecommunications Forum
WISPANZ	Wireless Internet Service Providers Association of New Zealand Inc

EXECUTIVE SUMMARY	5
INTRODUCTION	6
PURPOSE OF THIS DOCUMENT	6
STRUCTURE OF THIS DOCUMENT	6
CHAPTER 1 CONTEXT AND PROCESS FOR THE PREVIOUS CODE REVIEW	8
CONTEXT FOR THE PREVIOUS CODE REVIEW.....	8
PROCESS FOR THE PREVIOUS CODE REVIEW	9
CHAPTER 2 PROCESS AND TEST FOR AMENDING THE PREVIOUS CODE	12
PROCESS FOR AMENDING A CODE.....	12
THE TEST FOR MAKING AMENDMENTS TO A CODE	12
CHAPTER 3 AMENDMENTS TO THE PREVIOUS CODE	14
AMENDMENTS TO THE APPLICATION OF THE CODE	17
APPLICATION OF THE CODE TO LANDLINE SERVICES.....	17
AMENDMENTS TO DEFINED TERMS	21
APPLICATION OF THE CODE TO HEALTH CARE SERVICE PROVIDERS AND OPERATORS OF RETIREMENT VILLAGES.....	21
APPLICATION OF THE CODE TO MEDICAL ALARMS	27
AMENDMENTS TO THE REQUIREMENT ON PROVIDERS TO INFORM ALL CONSUMERS ABOUT OPTIONS AVAILABLE FOR VULNERABLE CONSUMERS.....	31
COMMUNICATION OF CODE-RELATED INFORMATION	32
CONSUMERS PREFERRED METHOD OF CONTACT	34
AMENDMENTS TO THE PROCESS FOR A CONSUMER TO DEMONSTRATE THEY ARE A VULNERABLE CONSUMER.....	35
APPLICATION FORM TEMPLATE AND REQUIREMENTS.....	36
AMENDMENTS TO THE REQUIREMENT ON PROVIDERS TO PROVIDE VULNERABLE CONSUMERS WITH AN APPROPRIATE MEANS FOR CONTACTING THE 111 EMERGENCY SERVICE	38
REPLACEMENT OF APPROPRIATE MEANS SUPPLIED TO VULNERABLE CONSUMERS.....	39
WHEN A MEANS CAN BE CONSIDERED APPROPRIATE.....	40
AMENDMENTS TO CIRCUMSTANCES WHERE A CONSUMER MAY NO LONGER BE CONSIDERED VULNERABLE	43
VULNERABLE STATUS WHEN MOVING PREMISES	44
AMENDMENTS TO REQUIREMENTS ON PROVIDERS TO DISCLOSE INFORMATION	45
DISCLOSURE OF TIME TAKEN TO PROVIDE APPROPRIATE MEANS TO CONSUMERS	45
DISCLOSURE OF ACCEPTED APPLICATIONS	47
CHAPTER 4 NO AMENDMENTS TO THE PREVIOUS CODE	49
LACK OF CONSUMER AWARENESS.....	50
ACCESSIBILITY OF CODE-RELATED INFORMATION.....	51
DEFINITION OF MINIMUM PERIOD	52
OTHER COMMUNICATION CHANNELS.....	53
COMMENCEMENT DATE.....	54
APPENDIX A: RELEVANT STATUTORY PROVISIONS	55

Executive summary

- X1 The Commerce Commission (**the Commission**) 111 Contact Code (2024) (**the Code**) sets out mandatory requirements on providers of a residential landline service to provide vulnerable consumers or persons on their behalf with an appropriate means to contact the 111 emergency service in the event of a power failure.¹
- X2 The Commission reviewed the previous version of the Code (**Previous Code**)² to assess its operation and identify any improvements to better meet the requirements in the Telecommunications Act 2001 (**the Act**).
- X3 As part of this review, in May 2023, we sought views on the effectiveness of the Previous Code in meeting these requirements via a **Request for Views paper**.³
- X4 Consultation confirmed that, while the Previous Code is delivering against the minimum requirements in the Act, there is room for improvement in some areas.
- X5 In December 2023, we published a draft amendment to the Previous Code (**Draft Amended Code**)⁴ alongside our draft decisions (**Draft Decisions and Reasons paper**)⁵ seeking stakeholder views on proposed changes to the Previous Code.
- X6 Generally, submissions supported the proposed changes and confirmed that the Draft Amended Code would largely deliver against the minimum requirements. However, further amendments were suggested to better meet the minimum requirements in the Act.
- X7 Our decisions to amend the Previous Code are intended to:
- X7.1 clarify the scope and obligations under the Code;
 - X7.2 refine the ways that information about the Code is provided to consumers and improve consumer protection; and
 - X7.3 improve the information that is disclosed to the Commission.

¹ The purpose of the code is outlined in section 238 (1) of the Act.

² Published 17 November 2020.

³ https://comcom.govt.nz/_data/assets/pdf_file/0018/316170/111-Contact-Code-Review-Request-for-Views.pdf.

⁴ https://comcom.govt.nz/_data/assets/pdf_file/0029/343748/Tracked-111-Contact-Code-Review-Draft-Amended-Code-18-December-2023.pdf.

⁵ https://comcom.govt.nz/_data/assets/pdf_file/0033/338199/111-Contact-Code-Review-Draft-Decisions-and-Reasons-paper-18-December-2023.pdf.

- X8 We have published the Code alongside this Decisions and Reasons paper. The Code comes into effect on 1 July 2024. We have also published a separate tracked version of the Code which shows the latest changes to the Code.⁶
- X9 To ensure providers have sufficient time to come into full compliance with the amendments to the Code, we have prescribed a six-month grace period starting on 1 July 2024 and ending on 1 January 2025.
- X10 During the grace period, providers will be considered to have complied with the requirements of the Code if they complied with the Code as it was prior to these amendments.

Introduction

Purpose of this document

1. The Act allows the Commission to amend a code if we consider that it no longer meets the requirements set out in the Act.⁷ When considering whether the Code meets the requirements, we will consider the Code against the requirements in section 238(3) and the purpose in section 238(1) of the Act. As noted in our Request for Views paper, we will also consider any improvements to assist the Code in better meeting its purpose or delivering on requirements.⁸
2. After reviewing the Previous Code and seeking views from stakeholders (including interested persons), our final decision is that while it continues to meet the requirements set out in the Act, certain amendments should be made to enable the Previous Code to better meet its purpose.
3. The Code has been amended to give effect to these changes and is published alongside this Decisions and Reasons paper which explains our final decisions and reasons.
4. We would like to thank all those who participated in the process, including telecommunications service providers, interested persons, consumer advocacy groups, aged care and retirement village operators, and consumers. Submissions received were an essential part of our process and have helped us to ensure the Code is fit for purpose.

Structure of this document

5. This Decisions and Reasons paper has the following sections:
 - 5.1 **Chapter 2: Context and process for the Previous Code review** explains the context and the process of the review;

⁶ [Commission 111 Contact Code \(Amendment Version 2024\)](#).

⁷ Section 239(5) of the Act.

⁸ Request for Views paper, May 2023, paras 13 to 15.

- 5.2 **Chapter 3: Process and test for amending the Previous Code** discusses the legal process and test for making amendments to the Previous Code;
- 5.3 **Chapter 4: Amendments to the Previous Code** provides our reasoning for the content of the Code, including Code requirements; and
- 5.4 **Chapter 5: No amendments to the Previous Code** provides our response and reasoning for topics raised by submissions that we did not consider required a change to the Previous Code.

Chapter 1 Context and process for the Previous Code review

Context for the Previous Code review

6. Telecommunications services are currently transitioning from copper lines to modern technology such as fibre and fixed wireless access (**FWA**). These modern services rely on power to operate, creating a risk that vulnerable consumers may be unable to contact emergency services during a power failure at their premises.
7. People who are more likely to need to contact the 111 emergency service, such as for health, safety or disability reasons, are at greater risk during a power failure when they switch to modern technologies.
8. In November 2018, the Act was amended by the Telecommunications (New Regulatory Framework) Amendment Act 2018. The amendments to the Act required the Commission to make a code for the purpose of ensuring 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.⁹
9. Section 9A of the Act was also amended to provide that the Commission must monitor compliance with the code, and must make available reports, summaries, and information about compliance with the code.¹⁰
10. On 17 November 2020 we published the Previous Code accompanied by its decisions and reasons paper (**2020 Decisions and Reasons paper**). The Previous Code came into force on 1 February 2021, and section G (now section H) came into effect on 1 August 2021.¹¹
11. The purpose of the Code is to ensure that these vulnerable consumers, or persons on their behalf, have reasonable access to the 111 emergency service in the event of a power failure.
12. The Act defines a vulnerable consumer as being a consumer of a specified telecommunications service who:¹²
 - 12.1 is at particular risk of requiring the 111 emergency service (for example due to a known medical condition); and
 - 12.2 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.

⁹ Section 238(1) of the Act.

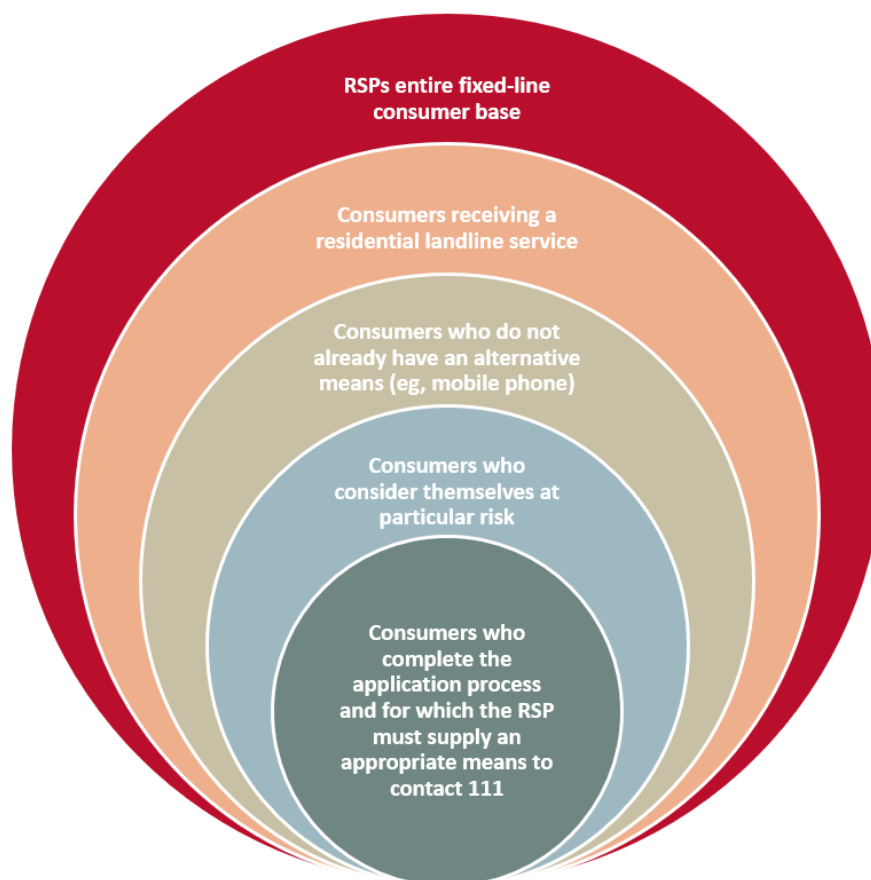
¹⁰ Section 9A(1)(c)-(d) of the Act.

¹¹ Section H: Requirement on providers to provide vulnerable consumers with an appropriate means for contacting 111.

¹² Section 238(5) of the Act.

13. The diagram below indicates the criteria a consumer must meet to be considered vulnerable under the Code.

Figure 1: Subset of consumers entitled to be considered vulnerable



Process for the Previous Code review

14. Throughout 2022 we undertook compliance engagement work to promote compliance with the Previous Code. On 30 November 2022 we commenced an evaluation of compliance with the Previous Code.¹³
15. On 18 May 2023 we commenced a review of the Previous Code as it had been in force for two years, and the feedback we received during our compliance work and our own observations showed that there was room for improvement.

Request for Views

16. On 18 May 2023 we published our Request for Views paper. This paper set out the process for our review and sought stakeholder views on the operation of the Previous Code, and any improvements that could be made to better meet the requirements of the Act.

¹³ Following the conclusion of the 2021/22 code disclosure year. The Previous Code and the Code includes information disclosure and record keeping requirements under section 238(4)(c) of the Act which we believe are necessary to achieve the purpose of the Code.

17. We received 18 submissions from 17 different parties in response.¹⁴ Providers and industry groups largely submitted that the Previous Code was meeting its purpose but that there were some amendments required to streamline the compliance process.
18. Consumer advocacy groups shared the view that the Previous Code did not meet its purpose as consumers were not sufficiently informed of the protections offered by the Previous Code.
19. Based on our compliance monitoring and submissions, our view was that the Previous Code has been largely functioning as intended, but further opportunity existed for clarification, refinement, and raising awareness.

Draft Amended Code and submissions

20. On 18 December 2023, we published the Draft Amended Code alongside the Draft Decision and Reasons paper which were based on our review and consideration of the submissions received in response to our Request for Views paper.
21. Our Draft Decisions and Reasons paper proposed operational changes and the exclusion of “business landline services” from being captured under the Code.¹⁵ The paper also presented our initial views on residential care and assisted living facilities, and how these facilities may be captured by the Code.
22. We received submissions from 10 parties on our Draft Decisions and Reasons paper: Age Concern New Zealand (**Age Concern**), the Aged Care Association New Zealand (**ACA**), Bupa Villages and Aged Care New Zealand (**Bupa**), Chorus, the New Zealand Telecommunications Forum (**TCF**), the New Zealand Police (**NZ Police**), the Retirement Villages Association (**RVA**), Rural Women New Zealand (**RWNZ**), Ryman Healthcare Limited (**Ryman**) and Summerset Group Holdings Limited (**Summerset**).¹⁶ Some of the TCF’s members did not provide their own individual submissions as the TCF’s submission represents views of its members on the amendments to the Previous Code.
23. Generally, submissions supported the amendments proposed in the Draft Amended Code.

¹⁴ The submitters included: 2degrees, Anonymous, Business Technology Group, Consumer NZ, Disabled Persons Assembly, Fire and Emergency, Grey Power, Mercury, MyRepublic, NZ Police, New Zealand Telecommunications Forum, One NZ, Sky, Spark, Tech Users Association of New Zealand, Whaikaha and Wireless Internet Service Providers Association of New Zealand. Copies of these submissions can be found here: <https://comcom.govt.nz/regulated-industries/telecommunications/projects/review-of-the-commission-111-contact-code?target=documents&root=320897>.

¹⁵ Defined in the Draft Amended Code as “a telecommunications service that is primarily marketed and/or provided for businesses purposes, and includes a telecommunications service provided to: (a) a company, as defined in the Companies Act 1993; (b) a body corporate; (c) a corporation sole; (d) a sole trader; (e) a partnership, as defined in the Partnership Law Act 2019”.

¹⁶ Copies of these submissions can be found here: <https://comcom.govt.nz/regulated-industries/telecommunications/projects/review-of-the-commission-111-contact-code?target=documents&root=347360>.

24. Submitters suggested some further amendments that could simplify processes and provide better protections to providers and consumers, including clarification of the landline services in scope of the Code,¹⁷ the types and requirements of appropriate means,¹⁸ and information provision requirements.¹⁹
25. Age Concern and the TCF also outlined that improved consumer awareness of the code, and the protections it offers vulnerable consumers, would be beneficial.²⁰
26. Aged residential care facilities and retirement village providers (Bupa, Ryman and Summerset)²¹ and associated advocacy groups (the ACA and the RVA),²² submitted that obligations on the aged residential care industry under the Previous Code are unclear, and suggested that some facilities should not be captured under the Code.

¹⁷ Bupa “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 5; RWNZ “Submission on draft amended 111 Code and draft decisions and reasons paper” (25 February 2024) pages 1-3; Chorus “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 2; and TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) pages 12 & 14.

¹⁸ TCF “Submission on draft amended 111 Code tracked changes ” (1 March 2024) pages 12, 21 & 22; RVA “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 1 & 2; Ryman “Submission on draft amended 111 Code and draft decisions and reasons paper” (29 February 2024) pages 3-5; Summerset “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 2 & 3; and ACNZ “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 4.

¹⁹ TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) pages 13 & 14; ACNZ “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 4; and RWNZ “Submission on draft amended 111 Code and draft decisions and reasons paper” (25 February 2024) page 2.

²⁰ Age Concern “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 3; and TCF “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 2.

²¹ Bupa “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 2-5; Ryman “Submission on draft amended 111 Code and draft decisions and reasons paper” (29 February 2024) pages 1-5; and Summerset “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 1-3.

²² ACA “Submission on draft amended 111 Code and draft decisions and reasons paper” (23 February 2024) pages 2-4; and RVA “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 1 & 2.

Chapter 2 Process and test for amending the Previous Code

27. In this chapter we set out the legal process and test for making amendments to a code. The provisions of the Act are included in **Appendix A** to this paper.

Commission 111 contact code

28. Section 238(1) of the Act sets out that we “must make a code for the purpose of ensuring 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”. It also sets out the code requirements.

Process for amending a code

29. Section 239 of the Act sets out the process the Commission must follow to make or amend a code. Among other things, it requires the Commission to consult on a draft code, give public notice of the draft amendments to the code and provides that the Commission may make the Code only if it is satisfied that the draft Code meets all the requirements set out in Part 7 of the Act.

The test for making amendments to a code

30. When considering whether a code meets the requirements of the Act, we consider it against the minimum requirements set out in section 238(3), read in light of the purpose of the code.²³
31. We do not consider that we are constrained by section 239(5) to only consider amendments where there is a clear gap in the code in meeting the minimum requirements in the sense that a requirement is not met at all.
32. Rather, we consider that we are permitted to make amendments to the code where the amended code would *better meet* the minimum requirements, including where a different way of doing something would better deliver on the requirements.
33. In addition, we consider that section 238(4)(c) of the Act permits us to add new clauses to the code where we consider this would better meet the purpose of the code set out in section 238(1).²⁴
34. In the context of this review, we have therefore assessed whether the Previous Code could be amended to better meet the minimum requirements, considering the purpose of the code in section 238(1) and the minimum requirements in section 238(3) of the Act.

²³ Section 238(1) of the Act.

²⁴ Section 238(4)(c) provides that the code may contain any other provisions that are necessary or desirable to achieve the purpose in subsection (1).

35. Our review included an examination of evidence on the effectiveness and efficiency of the requirements in the Previous Code, and whether these could be improved to better meet the purpose.

Chapter 3 Amendments to the Previous Code

36. In this chapter we set out our final decisions and reasons for amendments to the Previous Code.
37. For an explanation of our decisions on all other provisions and requirements, please refer to our 2020 Decisions and Reasons paper.²⁵
38. Below we outline:
- 38.1 the requirements of a code set out in the Act;
 - 38.2 the requirements under the Previous Code;
 - 38.3 our draft decisions, as informed by submissions on our Request for Views paper; and
 - 38.4 our final decisions and reasons, informed by submissions on our Draft Decisions and Reasons paper and Draft Amended Code.
39. Below we provide a summarised list of the amendments to the Previous Code. The reasons for the amendments are set out in this chapter.²⁶

Table 1: Summary of amendments to the Previous Code

ID	Subject of change	Final decision	Reference in this paper
1	Application of the Code to landline services	<ul style="list-style-type: none"> • State that the Code does not apply to business landline services as defined in the Code. The Code refers to residential landline services instead of retail landline services and has minor changes to defined terms. • Specifically exclude copper landline services (as defined in the Code)²⁷ from the definition of residential landline services. 	Paras 42-66
2	Application of the Code to health care service providers and operators of retirement villages	<ul style="list-style-type: none"> • State that the Code does not apply to “health care services”, under the Health and Disability Services (Safety) Act 2001. • Clarify that the Code does apply to Retirement Villages where they provide telecommunications services. 	Paras 67-94

²⁵ Commission “Commission 111 Contact Code: Decisions and Reasons Paper” (17 November 2020).

²⁶ We have also made a small number of editorial refinements and drafting improvements to the Code.

²⁷ 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.

ID	Subject of change	Final decision	Reference in this paper
3	Application of the Code to medical alarms	<ul style="list-style-type: none"> State that ‘medical and other safety alarms’, as defined in the Code are a valid means of contacting the 111 emergency service. State that contact to the 111 emergency service through a defined ‘qualified third party’ is acceptable under the Code. 	Paras 95-121
4	Communication of code-related information	<ul style="list-style-type: none"> Add clarification that consumers are not able to purchase or switch between residential landline services or technology without being aware of the information regarding the Code. 	Paras 123-136
5	Consumers preferred method of contact	<ul style="list-style-type: none"> Remove an outdated reference (‘10 February 2021’) in the requirement regarding provision of information by providers to their customers. 	Paras 137-143
6	Application form template and requirements	<ul style="list-style-type: none"> Clarify that the application form template is provided by the Commission for guidance purposes only and that providers can modify it, provided it otherwise meets Code requirements. Updated the template to better align it with the requirements under clause 18 of the Code and to simplify it for usability. The template is not part of the Code and will be made available on the Commission’s website to avoid any inference it is compulsory. 	Paras 146-160
7	Replacement of appropriate means supplied to vulnerable consumers	<ul style="list-style-type: none"> Remove the requirement to replace appropriate means at least every 36 months and substitute it with the requirement for the provider to test appropriate means at least every 36 months. 	Paras 164-173
8	When a means can be considered appropriate	<ul style="list-style-type: none"> Clarify that if the Code’s requirements are met, the appropriate means supplied by the provider to the vulnerable consumer will be deemed to be appropriate, whether the vulnerable consumer accepts it or not. State that a consumer’s application can be considered withdrawn if they reject the appropriate means which complies with the Code requirements. 	Paras 174-191

ID	Subject of change	Final decision	Reference in this paper
		<ul style="list-style-type: none"> Require providers to make vulnerable consumers aware of the implications of rejecting the appropriate means in the application form. Require providers to disclose the number of accepted and withdrawn applications during the disclosure year and to maintain accurate records of this information. 	
9	Vulnerable status when moving premises	<ul style="list-style-type: none"> Remove the automatic loss of vulnerable status when moving premises. State that if a consumer moves premises, but remains with their provider, the provider may check the consumer’s status and potentially require them to re-apply if something material has changed. 	Paras 194-200
10	Disclosure of time taken to provide appropriate means to consumers	<ul style="list-style-type: none"> Replace the requirement to disclose an overall average provisioning time with a requirement to report on how long each individual install took for each vulnerable consumer (from the date each application was accepted). If an install took longer than 10 working days, providers must briefly describe why. 	Paras 203-211
11	Disclosure of accepted applications	<ul style="list-style-type: none"> Add a new requirement to disclose the number of accepted applications during the disclosure year and to maintain accurate records of this information. 	Paras 212-216

AMENDMENTS TO THE APPLICATION OF THE CODE

What the Act and Previous Code require

40. The Act states that the code must specify the telecommunications services to which it applies.²⁸
41. The Previous Code applies to ‘retail landline services’, which meant a landline service provided to a consumer at a premises, and excluded:
 - 41.1 (a) mobile services;
 - 41.2 (b) naked broadband services; and
 - 41.3 (c) applications that provide voice services over broadband services (such as Skype).

Application of the Code to landline services

Context and draft decision

42. 2degrees and Wireless Internet Service Providers Association New Zealand (**WISPANZ**) suggested that the Code should only apply to residential services as business consumers do not ordinarily reside at the premises where the residential landline service is supplied.²⁹ Submissions also suggested that the compliance impact of including business landline services within the scope of the Code had been more significant on the providers of these services than we had anticipated.
43. Having considered these submissions, we agreed that business landline services should be excluded from the scope of the Code as we would expect employers to take responsibility for their employee’s health and safety and have adequate protections in place.
44. We noted that while we agreed with NZ Police that protection and resiliency is important in all areas,³⁰ the Code is intended to provide resiliency at home where consumers may not have other protections.
45. Considering the above, our draft decision was that:
 - 45.1 business landline services are defined in the Code;
 - 45.2 the definitions of retail landline services (from retail landline services to residential landline services) and premises are amended; and
 - 45.3 Code requirements apply to only residential landline services, and the Code does not apply to business landline services.

²⁸ Section 238(3)(a) of the Act.

²⁹ 2degrees “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 1; and WISPANZ “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 5.

³⁰ NZ Police “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 2.

Submissions on our draft decision

46. Age Concern supported our proposed amendments.³¹
47. RWNZ did not believe the Draft Amended Code adequately addressed small business customers (particularly in rural areas) who have vulnerable consumers residing on the premises. RWNZ questioned how the intention of the code to ‘provide resiliency in the home’ can be achieved if landline services that serve a dual residential and business function are classified as business landline services and excluded.³²
48. To support its submission, RWNZ suggested that:
 - 48.1 we include a clause in the Code stating that where there is doubt over whether a consumer who resides at a location shares a landline service with a business, that the landline is to be treated as a residential service by a provider until determined otherwise;
 - 48.2 the Code should require providers to determine how they distinguish between residential and business landlines, and if that is not already known;
 - 48.3 providers should be required to monitor how many vulnerable rural consumers are reliant on a landline service.³³
49. Chorus recommended retaining the word ‘retail’ in the term or definition of ‘residential landline service’ to remove any ambiguity as to the functional level of service the Code applies to.³⁴
50. The TCF suggested that because consumers who have a copper landline are not eligible for protection under the Code, copper landline services should be added to the definition of residential landline services as an explicitly excluded service.³⁵ Alongside this suggestion, the TCF also suggested adding the requirement to inform consumers of the code when they first contract with a provider for a copper landline service.

Final decision and reasons

51. We have amended our draft decision in relation to the application of the Code. The Code will be amended as such that:
 - 51.1 business landline services are defined in the Code;

³¹ Age Concern “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 2.

³² RWNZ “Submission on draft amended 111 Code and draft decisions and reasons paper” (25 February 2024) pages 1 & 2.

³³ RWNZ “Submission on draft amended 111 Code and draft decisions and reasons paper” (25 February 2024) page 2.

³⁴ Chorus “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 2.

³⁵ TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) pages 12 & 14.

- 51.2 the definition of retail landline services is replaced with a new defined term of residential landline services;
 - 51.3 amend the definition of residential landline services to include the term 'retail';
 - 51.4 the definition of premises (used or intended for *residence*, as opposed to *occupation*) is amended;
 - 51.5 the Code does not apply to business landline services or copper landline services (as currently defined in the Code); and
 - 51.6 clause 8.1 of the Previous Code is removed.
52. We understand the concerns RWNZ has raised regarding the Code not providing adequate protections to (particularly rural) vulnerable consumers whose business landline also serves as their residential landline. Our view remains that business consumers do not ordinarily reside at the location where the business landline service is supplied. Those consumers who wish to have access to protections under the Code at their residential premises, are able to purchase a residential landline service.
53. Also, where employees reside at a premises where a business landline service is supplied, we still expect that employers would take responsibility for their employees' health and safety and put adequate protections in place.
54. We disagree with RWNZ that the Code should require providers to monitor how many "vulnerable rural consumers" are reliant on a landline service (residential or business) or treat a landline service as a residential landline service if it is unclear whether rural vulnerable consumers reside at the location which receives that service.
55. Residential and business landline services sold by providers are different services and can vary in a number of ways such as support options, features and capacity. As such, while providers will know the number of business and residential landline services they provide, we do not believe it would be appropriate to require providers to treat a business landline service as a residential landline service if they don't know whether a rural vulnerable consumer resides at the location the business landline service is supplied to or not. This would represent a disproportionate compliance burden on providers for little to no benefit for vulnerable consumers.
56. We note that it is up to each provider to determine if and which landline services they sell. This means that some providers may only sell business landline services and thus will not be captured under the Code.
57. Similarly, providers are already required to capture and disclose how many vulnerable consumers are reliant on a residential landline service at their premises. As above, we disagree that it would be appropriate to require this for business

landline services as well, as it would greatly increase code-related compliance costs with little to no benefit to consumers.

58. We agree with Chorus that it is useful to retain the word ‘retail’ to avoid any ambiguity regarding the functional level of a landline service provided. We have included it in the definition of ‘residential landline service’.
59. We agree with the TCF that copper landline services should be explicitly excluded from the definition of a residential landline service. As we have also decided to remove clause 8.1 of the Previous Code (see para 65 below), this will mean that the Code will no longer apply to providers of copper landline services (as defined in the Code).
60. Given the definition of copper landline services, “landline service provided over a copper line using traditional analogue copper voice technology” will be excluded from the scope of the Code, but “any voice service that is provided using technologies (hardware or software) that rely on mains powered electricity at the premises” will continue to be captured.
61. The Code has been operating for more than three years and we consider that consumers of copper voice services should now be sufficiently aware that copper landline services will continue to work in a power failure, as this hasn’t changed. The number of customers and consumers of copper landline services has declined substantially since the Code was introduced. There are 51,000 voice-only copper connections at 31 March 2024 as opposed to 159,000 at 31 December 2020, and we expect connection numbers will continue to decline.
62. We believe that continuing to require consumers of a copper landline service to receive information about the technologies that don’t work in a power failure, and about the Code in general, could cause more confusion than benefit. If these consumers switch to a landline service on a technology which won’t work in a power failure (such as FWA or fibre), they will receive the relevant Code information during that switching/purchasing process.
63. Due to the reasons discussed in the paragraph above, we disagree with the TCF’s additional proposal to provide a person the required Code information set out in clause 6 when they first contract with a provider for a copper landline service.
64. The Previous Code already states that a consumer who receives a copper landline service is deemed to have a means for contacting 111 emergency service in the event of a power failure and thus will not be eligible for protection under the Previous Code. We do not believe such customers need to receive any information regarding the Code, and that doing so may cause unnecessary confusion as to whether their service would work in a power failure or not.
65. We have also removed clause 8.1 of the Previous Code so that providers no longer need to provide information to a person when they first contract with a provider for the supply of a naked broadband service. Since naked broadband services cannot be used to contact the 111 emergency service, we consider removal of this clause will

bring further clarity regarding the scope of the Code. The Code will only apply to residential landline services that will not work in a power outage and that can be used to contact the 111 emergency services.

66. Based on this reasoning, we disagree with the TCF's additional proposal to provide a person the required Code information set out in clause 6 when they first contract with a provider for a copper landline service.

AMENDMENTS TO DEFINED TERMS

Application of the Code to health care service providers and operators of retirement villages

Context and view set out in our Draft Decisions and Reasons paper

67. Outside of submissions on our Request for Views paper, we were made aware of concerns around how health care service providers and operators of retirement villages who provide residential landline services to their residents are captured by the Code, including: retirement villages, rest and nursing homes, long-stay hospitals, dementia units and psychogeriatric units. We referred to all of the providers mentioned in the sentence above as "Facilities" in our Draft Decision and Reasons paper and will continue to do so in this paper for clarity.
68. We consulted on this matter in our Draft Decision and Reasons paper by inviting submissions on the following views that we set out.³⁶
69. We provided the following scenarios regarding the relationship the Facility may have with its residents regarding the provision of telecommunications services, and how it may differ according to the scenario:
- 69.1 **Scenario A:** The Facility purchases retail landline services, then on-sells these services to their residents. The resident is directly and separately invoiced by the Facility for the retail landline service.
- 69.2 **Scenario B:** The Facility purchases services and includes a phone in the resident's room that is not separately paid for by the resident but is bundled with other living costs as one bill. The resident does not see any invoices related to their telecommunications services specifically.
- 69.3 **Scenario C:** The Facility does not offer retail landline services, and residents instead purchase these services directly from a retail service provider.
70. It was our preliminary view that the party who holds the direct billing relationship with the consumer (ie, the Facility in scenarios A and B) is subject to the Previous Code and must comply with all requirements.
71. We believed the Previous Code is already sufficiently clear as to the definition of a provider of telecommunications services, and thus, as to who falls under the scope

³⁶ Commission "Commission 111 Contact Code Review – Draft Decisions and Reasons paper" (18 December 2023) paras 92-95.

of the Previous Code. As such, we did not consider that our views on this point required an amendment be made, but rather, we invited submissions on the views we set out.

Submissions on our views

72. We received a number of submissions from the types of Facilities listed above, as well as representative groups on this subject. We appreciate the level of engagement on this matter.
73. The TCF's submission which, as noted earlier in this paper, represents views from TCF members on the amendments to the Previous Code, agreed with our preliminary views set out in our Draft Decisions and Reasons paper.³⁷
74. Summerset's view is that the billing relationship between a care resident and a Facility is irrelevant to determining whether the Code should apply.³⁸ Bupa suggested that it would be better to consider the care relationship Facilities have with residents, rather than the billing relationship, as the care relationship would be a better determiner of whether the Code would provide benefit to residents of these Facilities.³⁹ Similarly, Ryman suggested the Code's application should instead be based on the broader concept of risk and existing risk-mitigations.⁴⁰
75. The ACA,⁴¹ Bupa,⁴² the RVA and Ryman submitted that there is a difference between aged residential care, and independent living such as in a retirement village, and that this needs to be recognised when making decisions about the Code's application.⁴³ Bupa explained that age-related residential care occurs at four levels: rest home, age-related hospital care, dementia care and psychogeriatric care. Bupa also stated that people who receive these levels of care cannot live independently and need daily care 24/7.⁴⁴

³⁷ TCF "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 2.

³⁸ Summerset "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 2.

³⁹ Bupa "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 2.

⁴⁰ Ryman "Submission on draft amended 111 Code and draft decisions and reasons paper" (29 February 2024) page 5.

⁴¹ ACA "Submission on draft amended 111 Code and draft decisions and reasons paper" (23 February 2024) page 2.

⁴² Bupa "Submission on Draft amended 111 Code and Draft Decisions and Reasons paper" (1 March 2024) para 7a.

⁴³ RVA "Submission on 111 Code review draft amended Code and draft decisions and reasons paper" (1 March 2024) page 1; and Ryman "Submission on draft amended 111 Code and draft decisions and reasons paper" (29 February 2024) pages 2 & 3.

⁴⁴ Bupa "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 3.

76. The ACA,⁴⁵ Bupa,⁴⁶ Ryman and Summerset recommended excluding aged residential care facilities from being captured under the Code,⁴⁷ while the RVA recommended that retirement villages that provide emergency call systems that are monitored 24/7, be exempt from the Code.⁴⁸
77. Submissions also outlined that aged residential care providers already have several compliance obligations to Te Whatu Ora (Health New Zealand) and that additional compliance requirements under the Code would be unnecessary, burdensome, and would not provide greater protections to their residents.⁴⁹
78. The RVA noted that as part of these existing compliance obligations, aged residential care facilities must comply with the Age-Related Residential Care Services Agreement 2023-24 which requires them to develop a Major Incidents and Health Emergency Plan.⁵⁰ These plans set out requirements that the Facilities must be able to service the needs of their residents in emergency situations, including power failures, and that the services provided to residents meet and exceed the minimum requirements under the Code.⁵¹ The ACA,⁵² RVA and Ryman provided examples of the type of backup and support systems in place across the sector.⁵³
79. Summerset outlined concerns regarding possible confusion of residents who may be unable to tolerate or operate new technology, including their understanding of the appropriate response in an emergency.⁵⁴

⁴⁵ ACA “Submission on draft amended 111 Code and draft decisions and reasons paper” (23 February 2024) page 4.

⁴⁶ Bupa “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 2 & 4.

⁴⁷ Ryman “Submission on draft amended 111 Code and draft decisions and reasons paper” (29 February 2024) page 1; and Summerset “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 1, 2 & 3.

⁴⁸ RVA “Submission on 111 Code review draft amended Code and draft decisions and reasons paper” (1 March 2024) page 2.

⁴⁹ ACA “Submission on draft amended 111 Code and draft decisions and reasons paper” (23 February 2024) page 3; Ryman “Submission on draft amended 111 Code and draft decisions and reasons paper” (29 February 2024) page 2; Summerset “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) para 6; Bupa “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 3 & 4; and RVA “Submission on 111 Code review draft amended Code and draft decisions and reasons paper” (1 March 2024) page 1.

⁵⁰ RVA “Submission on 111 Code review draft amended Code and draft decisions and reasons paper” (1 March 2024) page 1.

⁵¹ Clause 19.6 of the 2023/24 ARRC Agreement. See pages 63 & 64, <https://www.tewhatoora.govt.nz/assets/Our-health-system/Claims-provider-payments-and-entitlements/Aged-Residential-Care/Provider-Agreements/ARRC-Agreement-2022-23-effective-1-Sept-2022-FINAL-for-website.pdf>.

⁵² ACA “Submission on draft amended 111 Code and draft decisions and reasons paper” (23 February 2024) pages 2, 3 & 4.

⁵³ RVA “Submission on 111 Code review draft amended Code and draft decisions and reasons paper” (1 March 2024) page 2; and Ryman “Submission on draft amended 111 Code and draft decisions and reasons paper” (29 February 2024) pages 3 & 4.

⁵⁴ Summerset “Submission on draft amended 111 Code and draft decisions and reasons paper ” (1 March 2024) pages 2 & 3.

80. Ryman suggested we encourage industry-wide collaboration to develop consistent and practical approaches to ensure residents safety without unnecessary regulatory burden.⁵⁵
81. Finally, Bupa stated that if the Code is seen to place additional onus on aged care residential facilities, landline offerings to residents may be withdrawn.⁵⁶

Final decision and reasons

82. Our final decision is:
- 82.1 to state that if a supplier is offering residential landline services this means they meet the definition of ‘provider’ and may have obligations under the Code;
 - 82.2 to amend the definition of ‘provider’ to set out that the Code does not apply to providers that also supply ‘health care services’ as defined in the Health and Disability Services (Safety) Act 2001, as amended from time to time (**H&D Act**);
 - 82.3 maintain that, subject to the matters discussed in paragraph 88 below, the Code does apply to ‘retirement villages’ under the Retirement Villages Act 2003, as amended from time to time (**Retirement Villages Act**); and
 - 82.4 that the billing relationship is a relevant consideration for providers of telecommunications services which do not provide ‘health care services’, as defined in the H&D Act.
83. We agree with Summerset, Bupa and Ryman that the care relationship should be considered when determining whether a Facility, which is also a provider of residential landline services to consumers, is captured under the Code. Only considering the billing relationship does not capture the level of day to day support provided to residents.
84. Our final decision takes into account the care relationship by excluding providers of ‘health care services’, from being captured under the Code.
85. As set out in the H&D Act, “health care services” means services that are:⁵⁷
- 85.1 hospital care: this includes geriatric services provided for continuous periods of 24 hours or longer;

⁵⁵ Ryman “Submission on draft amended 111 Code and draft decisions and reasons paper” (29 February 2024) page 5.

⁵⁶ Bupa “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) para 17.

⁵⁷ Health and Disability Services (Safety) Act 2001, s 4(1).

- 85.2 residential disability care: this includes care provided to people with an intellectual, physical, psychiatric, or sensory disability to help them function independently;
 - 85.3 rest home care: this includes services that are provided for the care of people who are frail (whether because of their age or for some other reason); and
 - 85.4 specified health or disability services: these services are declared as such by the Governor-General.
86. We agree with the submitters that argued that it is appropriate to draw a distinction between Facilities governed by the H&D Act and related regulations, and independent living arrangements such as retirement villages.
87. We agree that we should not add additional compliance burden on a Facility where the purpose of the Code is delivered through other means such as the backup and support systems already in place. This includes ensuring technology and information for residents is fit for purpose and supports, rather than inhibits, existing safety mechanisms.
88. It is our view that if the operator of the retirement village holds the direct billing relationship with the consumer, then it meets the definition of ‘provider’, is subject to the Code and therefore must comply with all Code requirements, including:
- 88.1 to inform consumers about the Code and provide any vulnerable consumers with an appropriate means for contacting the 111 emergency service;
 - 88.2 in assessing vulnerability, consider clause 21 of the Previous Code (now clause 25 of the Code), which allows a provider to consider that a consumer has an appropriate means of contacting the 111 emergency service if the consumer has access to an uninterruptable power supply able to maintain a means that can contact 111. If there is more than one vulnerable consumer at a premises, the means provided must be appropriate for the needs of each vulnerable consumer at that premises; and
 - 88.3 the disclosure requirements under the Code.
89. Further to the points discussed in paragraph 88 above, and in response to submissions on recognising internal emergency call systems, we are aware that not all retirement villages have call systems or power backups that allow these call systems to operate during a power outage. By excluding all retirement villages, there would be an increased risk that some vulnerable consumers will not have access to the protections under the Code.
90. For clarity, in situations where residents are responsible for their own telecommunications, such as unit title developments, the provider is not the

operator of the retirement village, and the operator will not be captured by the Code.⁵⁸

91. We note that providers who are operators of retirement villages can determine that a consumer/resident is not a vulnerable consumer if they have access to call systems that meet the requirements of appropriate means under the Code.
92. We note Ryman’s suggestion of industry-wide collaboration to develop a consistent and practical approach that ensures resident safety without unnecessary regulatory burdens. We do agree that developing consistent and practical approaches to protecting residents in Facilities is important and can benefit, residents, providers and regulators alike. However, this is out of scope of the Code and its review.
93. Regarding Bupa’s feedback highlighting the possible withdrawal of services, we note section J of the Code (Section I of the Previous Code) which outlines that “A provider must not deny, or withdraw, supply of a residential landline service to a consumer on the basis that the provider knows or suspects the consumer is (or may become) a vulnerable consumer.” Additionally, not all Facilities will be considered providers as landline services may be offered to their residents by a different provider or the Facility may be excluded from the Code.
94. In making this decision and setting out our reasons, we want to ensure different Facilities understand whether and how they are captured under the Code, and their subsequent obligations. Below we discuss four examples which present different types of Facilities, and details where we see the Code applies and where it does not.
 - 94.1 **Example 1:** A Facility offers rest home care, hospital care, dementia care and psychogeriatric care. As these are all ‘health care services’, they are excluded from the scope of the Code. As such, the Facility has no obligations under the Code, even if they provide landline services to their residents.
 - 94.2 **Example 2:** A Facility offers independent retirement village living. This Facility does not offer landline services to its residents. Residents must source their own residential landline service from a provider. As such, the Facility is not in scope of the Code and has no obligations under the Code.
 - 94.3 **Example 3:** A Facility offers independent retirement village living and sells landline services to its residents (who can also choose to purchase a landline service from another provider). As retirement villages who provide landline services to their residents are in scope of the Code, this Facility has obligations under the Code to the residents it is selling services to.
 - 94.4 **Example 4:** A Facility offers rest home care, hospital care, dementia care, psychogeriatric care, and retirement village living. It provides landline services to all of its residents. This provider is captured under the Code but only has Code obligations for residents purchasing a residential landline service who are also living in the retirement village. As this provider is also a

⁵⁸ RVA “Submission on 111 Code review draft amended Code and draft decisions and reasons paper” (1 March 2024) page 2.

provider of health care services, they do not have Code obligations when selling residential landline services to residents who are living in one of the units that provides health care services.

Application of the Code to medical alarms

Context and draft decision

95. Section 238(3)(d) of the Act states that the code must require providers to supply vulnerable consumers, at no cost to the consumers, with an appropriate means for contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure.
96. Section 238(4)(b) of the Act provides that we may specify appropriate means for vulnerable consumers, or persons on their behalf, to contact emergency services. The Previous Code does not specify particular solutions that are appropriate means.⁵⁹ Rather, the Previous Code prescribes principles which providers must follow when deciding what means to contact the 111 emergency service they will provide to a vulnerable consumer.⁶⁰
97. As set out in our Draft Decisions and Reasons paper, consumers who have an appropriate medical alarm that meets the minimum requirements under the Code are already adequately protected and do not require an appropriate means. If these alarms can be used as “a means for contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure” the consumer would not meet the definition of a vulnerable consumer under the Act or Code.⁶¹
98. The Previous Code is based on an approach which treats a consumer as vulnerable if the consumer:
 - 98.1 is a consumer of a specified telecommunications service (a specified telecommunications service is a telecommunications service specified in the Previous Code as a service to which the Previous Code applies);
 - 98.2 is at particular risk of requiring the 111 emergency service; and
 - 98.3 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.
99. In relation to the requirement noted at paragraph 98.3 above, the Previous Code sets out in clause 21 that a provider is entitled to conclude that a consumer has a

⁵⁹ See clauses 25-30 of the Previous Code.

⁶⁰ These principles are set out in paragraph 147 of the 2020 Decisions and Reasons paper. Section 238(5) of the Act defines vulnerable consumers: “as a consumer of a specified telecommunications service who— (a) is at particular risk of requiring the 111 emergency service (for example, due to a known medical condition); and (b) 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”.

⁶¹ Vulnerable consumer is defined in section 238(5) of the Act and in clause 12 of the Code (clause 9 of the Previous Code).

means for contacting the 111 emergency service at their premises under certain circumstances.⁶²

100. We considered that this approach better meets the purpose of the Code than an approach that specifies particular means that are appropriate. This was because the statutory requirement is to provide appropriate means, and what is appropriate will depend on the circumstances of each vulnerable consumer.
101. We further noted that a principles-based approach would enable providers to provide the most efficient and cost effective solution that meets the particular needs of a vulnerable consumer. It would also encourage providers to innovate to develop and source lower-cost, effective solutions.
102. Submissions on our Request for Views paper suggested that medical alarms should be explicitly mentioned in the Code as an appropriate means.⁶³
103. In our Draft Decisions and Reasons paper we noted:⁶⁴
 - 103.1 if a consumer has a medical alarm which can be used as “a means for contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure”, then that consumer does not meet the definition of vulnerable consumer under the Act or Code;
 - 103.2 it is open to providers to supply a new medical alarm or upgrade an existing medical alarm to satisfy their obligations under the Code, provided the solution satisfies the minimum requirements under the Code; and
 - 103.3 that as certain medical alarms could be deemed an appropriate means but that there may be medical alarms which do not meet the minimum requirements under the Code, it would be inappropriate to include a blanket statement in the Code including all medical alarms as appropriate means.

Submissions on our draft decision

104. The TCF submitted that our clarification in our Draft Decisions and Reasons paper, in paragraph 103.1 above, should also be added to the Code.⁶⁵

⁶² “21.1 the consumer’s premises receives a copper landline service; 21.2 the consumer has unrestricted access to a mobile phone and that consumer’s premises has adequate mobile phone network coverage; or 21.3 the consumer has an uninterruptable power supply to maintain a means for contacting the 111 emergency service in a power failure”.

⁶³ 2degrees “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 1; Spark “Feedback on 111 Contact Code” (30 November 2022) paras 13-21; TCF “Submission on 111 Contact Code Review Request for Views” (19 June 2023) paras 11-14; and One NZ “Submission on 111 Contact Code Review Request for Views” (16 June 2023) paras 7-10.

⁶⁴ Commission “111 Contact Code Review Draft Decisions and Reasons paper” (18 December 2023) paras 103-105.

⁶⁵ TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) page 16.

105. The TCF also submitted that we should clarify that 'contact 111 emergency service' does not only mean calling the 111 service, and that it can also mean access to a 111 emergency service (ambulance, police, fire) via a medical alarm provider.⁶⁶
106. We received several submissions regarding the use of emergency call systems (eg, call bells) in Facilities. The ACA,⁶⁷ Bupa,⁶⁸ the RVA and Ryman all discussed existing call systems in Facilities which provide residents direct 24/7 contact to either trained staff members or an external provider who can then contact the 111 emergency service as required.⁶⁹ The RVA and Ryman recommended these systems should be recognised in the Code as a suitable means of communication.⁷⁰
107. Summerset stated that none of their residents would meet the definition of "vulnerable consumer" as their residents already have a means of contacting 111 emergency service, via their trained staff.⁷¹
108. Ryman recommended redefining the definition of "vulnerable consumer" to consider existing safeguards and access to 111 or emergency services via alternative communication channels, and not just direct 111 calling.⁷²

Final decision and reasons

109. Our final decision is to:
 - 109.1 define 'managed medical or safety alarms' in the Code;
 - 109.2 amend clause 21 of the Previous Code (now clause 25 of the Code) so that a consumer who has a managed medical or safety alarm is considered as having a means for contacting 111 in a power failure, and as such will not qualify as a vulnerable consumer;
 - 109.3 amend clause 21 of the Previous Code (now clause 25 of the Code) to state that a provider is entitled to conclude that a consumer has a means for contacting the 111 emergency service if the consumer already has a device or technology which meets the requirements under the Code;

⁶⁶ TCF "Submission on draft amended 111 Code tracked changes" (1 March 2024) page 12.

⁶⁷ ACA "Submission on draft amended 111 Code and draft decisions and reasons paper" (23 February 2024) pages 2 & 3.

⁶⁸ Bupa New Zealand "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 4.

⁶⁹ RVA "Submission on 111 Code review draft amended Code and draft decisions and reasons paper" (1 March 2024) pages 1 & 2; and Ryman "Submission on draft amended 111 Code and draft decisions and reasons paper" (29 February 2024) pages 3-5.

⁷⁰ RVA "Submission on 111 Code review draft amended Code and draft decisions and reasons paper" (1 March 2024) pages 1 & 2; and Ryman "Submission on draft amended 111 Code and draft decisions and reasons paper" (29 February 2024) pages 3-5.

⁷¹ Summerset "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) para 10.

⁷² Ryman "Submission on draft amended 111 Code and draft decisions and reasons paper" (29 February 2024) pages 4 & 5.

- 109.4 define 'qualified third party' in the Code; and
- 109.5 amend the defined term '111 emergency service' to note that this service can be contacted directly by a consumer or via a qualified third party.
110. As outlined in paras 109.2 and 109.3 above, we still believe that consumers who have an appropriate medical alarm that meets the requirements under the Code are already adequately protected and do not require an appropriate means.
111. We agree with the TCF that adding this wording to the Code would make it clearer to providers and consumers. As such, we have amended clause 21 of the Previous Code (now clause 25 of the Code), to explicitly note that the Code treats a consumer who has a 'managed medical or safety alarm' as having a means for contacting 111 in a power failure, and so a consumer holding this device would not qualify as a vulnerable consumer.
112. A 'managed medical or safety alarm' means a device, including a call bell, which provides a consumer the ability to contact a 24/7 monitored contracted service, and which meets the requirements in section H of the Code. It is critical that there is contracted 24/7 support available, which is answered by someone that can assist the person in an emergency or connect them with emergency services (eg, transfer the call to 111). Alarms which send an alert to preprogrammed contacts, such as family or friends would not meet the requirements.
113. It remains open to providers to supply a new medical alarm or upgrade an existing medical alarm to satisfy their obligations under the Code, provided the solution satisfies Code requirements. This includes the requirement that it would be at no cost to the consumer.
114. We have also amended clause 21 of the Previous Code (now clause 25 of the Code) to explicitly state that the Code treats a consumer who has any device which meets the requirements of an appropriate means in section G of the Previous Code (now section H of the Code) as having a means for contacting 111 in a power failure. As such, a consumer who has any device at their premises that meets the requirements of an appropriate means would not qualify as a vulnerable consumer.
115. This amendment is aimed at future proofing the Code where new technologies arise which can act as a means for contacting the 111 emergency service in a power failure.
116. We also agree with the TCF and the RVA that contacting the 111 emergency service can be done via a 'qualified third party', such as in the case of many medical alarms, safety alarms and call bells.

117. The purpose of the 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.⁷³
118. Most medical and safety alarms, when activated, either directly contact one of the emergency services (eg, the St John medical alarm which connects directly to Hato Hone St John), or contacts a monitored call centre which triages the situation and then quickly notifies the appropriate emergency services as required.
119. In order to provide clarity, we have defined ‘qualified third party’ as a ‘company, as defined in the Companies Act 1993, as amended from time to time, or a person contracted to be available and is capable to contact 111 emergency services 24/7, such as via qualified retirement village staff and relevant medical alarm call centres’. This means that appropriate means such as an appropriate medical alarm, or call bell in a retirement village, can be used to contact the 111 emergency service via a monitored call centre (such as in the case of many medical alarms) or via a staff member (as for residents with a call bell in retirement villages).
120. Call bell systems in Facilities work in a similar way, connecting residents with staff members who can support and contact the emergency service as required. We agree the protection offered by these systems, where they meet the requirements under the Code, mean that they are a suitable means of communication to the 111 emergency service via a qualified third party.
121. As such, it is our understanding that consumers who have a ‘managed medical or safety alarm’ will have an effective and appropriate mean of contacting the 111 emergency service in the event of a power failure. This approach aligns with Ryman’s feedback to consider existing safeguards and access to 111 or emergency services via alternative communication channels.

AMENDMENTS TO THE REQUIREMENT ON PROVIDERS TO INFORM ALL CONSUMERS ABOUT OPTIONS AVAILABLE FOR VULNERABLE CONSUMERS

What the Act and Previous Code require

122. The Act requires that the Code must require providers of specified telecommunications services to inform consumers about the options available for vulnerable consumers.⁷⁴
- 122.1 Under the Previous Code, clause 5 sets out that a provider must provide information to all consumers of retail landline services about the options for consumers, including vulnerable consumers, to contact the 111 emergency service in the event of a power failure at their premises. Clauses 6 and 7 specify what this information must contain and how it must be provided to consumers, including that the specified information must be:

⁷³ Section 238(1) of the Act.

⁷⁴ Section 238(3)(b) of the Act.

- 122.2 made easily accessible to all consumers of retail landline services on the provider’s website in a manner that is consistent with the NZ Government Web Standards;
- 122.3 made easily accessible to all consumers of retail landline services at the point of sale, including through customer service representatives over the phone and in retail stores, and in online application forms for new services;⁷⁵
- 122.4 provided directly to all customers at least every 12 months;⁷⁶ and
- 122.5 provided in an easily discernible manner when a customer first contracts with a provider or switches between telecommunications technologies or services with the provider.⁷⁷

Communication of code-related information

Context and draft decision

- 123. When assessing compliance with the Previous Code we found that some providers do not present information listed in clause 6 in an easily accessible way. We are aware that this is a particular issue with some providers’ websites and that it often requires a dedicated search to find the relevant information.
- 124. Submissions from Whaikaha and the Disabled Persons Assembly (DPA) mentioned the need for information to be made more accessible.⁷⁸ Consumer NZ and the DPA also raised concerns that consumers are not adequately informed about the Code.⁷⁹
- 125. Our draft decision was that the Previous Code should be amended to:
 - 125.1 explicitly require the information set out in clause 6 to be provided in an easily discernible manner to all consumers such that the customer is not able to purchase a residential landline service or switch between telecommunications technologies or services without being aware of such information.

Submissions on our draft decision

- 126. Age Concern supported the proposed changes, and also suggested that information relating to raising disputes or complaints is equally visible in accessible formats on the relevant websites.⁸⁰

⁷⁵ Clauses 7.1 and 7.2 of the Previous Code.

⁷⁶ Clause 7.3 of the Previous Code.

⁷⁷ Clause 7.4 of the Previous Code.

⁷⁸ Whaikaha “Submission on 111 Contact Code Review Request for Views” (16 June 2023) pages 1 & 2; and DPA “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 5.

⁷⁹ Consumer NZ “Submission on the 111 contact Code Review Request for Views” (15 June 2023) pages 1 & 2; and DPA “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 5.

⁸⁰ Age Concern “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 2 & 4.

127. The TCF suggested an additional clause in the Code to state that providers will have met their obligation to provide information under clauses 5 and 6 when the providers supply a link to the required information and adequately describe what information is available at the link.⁸¹
128. The TCF suggested that our proposed addition to clause 7.4 in the Draft Amended Code be removed, as providers should already be compliant with the other requirements set out in clause 7 without what the TCF described to be “an overly specific additional requirement in the Code”. The TCF did not see that this added any value, and suggested that focusing efforts on non-compliant providers would be more useful.⁸²

Final decision and reasons

129. Our final decision is to:
- 129.1 amend clause 7.4.2 of the Previous Code (now clause 9.4.2 of the Code) to state “the customer switches to a different residential landline service or technology with the same provider that may not work in a power failure”; and
 - 129.2 add a new clause which states “For the purposes of clause 9, the information must be provided to consumers so that a customer is not able to purchase a residential landline service or switch between residential landline services or technologies without being aware of such information”.
130. We agree with Age Concern that information regarding how and where to make complaints or raise disputes should be clearly visible and accessible to consumers. However, no amendments are required to address this point given that the Code already requires information regarding how a consumer may make a complaint in relation to a matter arising under the Code to:⁸³
- 130.1 be made easily accessible to all consumers on the provider’s website, and at the point of sale;
 - 130.2 be provided to all customers at least once every 12 months; and
 - 130.3 be provided in an easily discernible manner to all customers when they first contract with the provider, and when they switch between services or technologies with the provider.
131. We do not agree with the TCF that providers can necessarily be considered as meeting their obligations by providing a link to Code information and adequately

⁸¹ TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) page 14.

⁸² TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) page 14.

⁸³ Clause 7 of the Previous Code (now clause 9 of the Code).

describing what information is available at the link. We also do not agree with the TCF's suggestion to remove clause 7.4.2.⁸⁴

132. We have received considerable feedback throughout this consultation process that consumers are not well informed of the Code. We want Code information to be easily available to consumers and believe these changes could negatively impact a consumer's ability to access Code information.
133. However, we do understand that the wording of clause 7.4.2 of the Previous Code (now clause 9.4.2 of the Code) could be clearer, and as such have amended it to state "the customer switches to a different residential landline service or technology with the same provider that may not work in a power failure". For clarity, this clause only relates to customers who have a residential landline service when they switch to a different residential landline service or technology.
134. This is consistent with our thinking in paragraph 65 that going forward, the Code will only apply to services that will not work in a power outage and that can be used to contact the 111 emergency service.
135. We want Code information to be provided in an easily discernible manner and believe that our amendment will aid in ensuring that information is provided to customers in line with the Code requirements, and will better meet its purpose.
136. To better support consumer understanding, we have also adapted our approach on the inclusion of our proposed amendment regarding customers not being able to purchase or switch without being aware of the information in clause 6 of the Previous Code (now clause 8 of the Code). It is now included as clause 10 in the Code. This reflects the clarification discussed above to focus on residential landline services, and states the wording applies to clause 7 of the Previous Code (now clause 9 of the Code) as a whole.

Consumers preferred method of contact

Context and draft decision

137. Clause 7.3 of the Previous Code sets out that the information listed in clause 6 must be "provided to all customers of a residential landline service no later than 10 February 2021 and at least once every 12 months thereafter". The information must be provided directly to each customer:⁸⁵
 - 137.1 by the customer's preferred method of contact (eg, email, phone call); or
 - 137.2 if the provider does not know the customer's preferred method of contact, in writing in an easily discernible manner.

⁸⁴ We clarified the feedback TCF provided in the marked up version of the document and their comment related to clause 7.4.2 of the Previous Code including the proposed additional wording.

⁸⁵ Clause 7.3 of the Previous Code.

Submissions on our draft decision

138. In its submission on our Draft Decisions and Reasons paper, the TCF proposed that the wording “if the provider does not know the customer’s preferred method of contact” is removed for “operational simplicity”.⁸⁶

Final decision and reasons

139. Due to the reasons outlined below, we will:

139.1 amend the first sentence of clause 7.3 of the Previous Code (now clause 9.3 of the Code) to read “provided to all customers of a residential landline service at least once every 12 months”.

140. We disagree with the TCF’s suggestion to remove the requirement regarding the provider’s knowledge of the customer’s preferred method of contact. This requirement ensures that consumers who have stated a preferred method of contact to their provider will receive code information via that method.

141. Written communication may not be the most appropriate for all consumers, for example where language (as suggested by RWNZ above), technology or eyesight barriers exist. Allowing information to be provided in writing is likely to further limit awareness of and accessibility to information about the Code, and the protections it offers vulnerable consumers.

142. We note the Previous Code has a reference to “10 February 2021”, which was the initial deadline for providers to contact their customers following the Previous Code’s commencement. This date is no longer relevant so we have removed reference to it from the first sentence of clause 7.3 of the Previous Code (now clause 9.3 of the Code).

143. Providers must provide all customers of a residential landline service the information outlined in clause 6 of the Previous Code (now clause 8 of the Code) at least every 12 months following the customer first contracting with the provider for a residential landline service.⁸⁷

AMENDMENTS TO THE PROCESS FOR A CONSUMER TO DEMONSTRATE THEY ARE A VULNERABLE CONSUMER

What the Act and Previous Code require

144. The Act sets out that the code must prescribe a process (or processes) for consumers of specified telecommunications services to demonstrate that they, or a person on their behalf, are, or will become, vulnerable consumers.⁸⁸

145. The Previous Code:

⁸⁶ TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) page 14.

⁸⁷ See clauses 9.3 and 9.4 of the Code.

⁸⁸ Section 238(3)(c) of the Act.

145.1 set out that a provider must make available a process for a consumer, or someone on their behalf, to apply to the provider to demonstrate that the consumer is (or will become) a vulnerable consumer. This process must comply with clauses 13-24 of the Previous Code.

145.2 supplied a template written application form. The Previous Code sets out that a provider may choose to offer this form (or some adaptation that provides the equivalent detail) for the purpose of clause 13.3 of the Previous Code.

Application form template and requirements

Context and draft decision

146. In response to our Request for Views paper, Grey Power,⁸⁹ Spark,⁹⁰ Whaikaha and the TCF mentioned the application form template was not accessible for many consumers and was too long and difficult to work with.⁹¹
147. While we never intended to require providers use our template, we agreed this could be better communicated. Including the template was intended to provide a helpful tool to assist providers in implementing their own process for a consumer to register as a vulnerable consumer. Therefore, our draft decision was to remove the template from the Code and add it to our website. This would avoid any inference that the template is mandatory. Additionally, by publishing the template as an editable document, it allows providers to use and edit the template to suit their needs, and the Commission to update the template as needed, without requiring a change to secondary legislation.
148. We noted in our Draft Decisions and Reasons paper that providers would remain able to use the template if they choose to, and to produce their own forms in a way that is accessible and best fits with their customers and their own processes and approach. These forms would still need to meet the requirements set out in Section F2 of the Previous Code (now Section G2 of the Code) and it would continue to be the responsibility of the provider to ensure their forms are fit for purpose.⁹²
149. Our draft decision was to:
- 149.1 no longer provide the template written application form as Attachment A. A template would instead be uploaded on the Commission’s website for optional use by providers; and
- 149.2 amend the guidance note in Section F2 of the Previous Code (now Section G2 of the Code) to state that the template could be found on our website.

⁸⁹ Grey Power “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 3.

⁹⁰ Spark “Feedback on 111 Contact Code” (30 November 2022) paras 41-45.

⁹¹ Whaikaha “Submission on 111 Contact Code Review Request for Views” (16 June 2023) page 1; and TCF “Submission on 111 Contact Code Review Request for Views” (19 June 2023) paras 21-22.

⁹² Commission “Draft Decisions and Reasons paper” (18 December 2023) para 61.

Submissions on our draft decision

150. We only received one submission on this topic. Age Concern supported our proposed amendment to remove the application form from the Code and make it available on our website to avoid inference that it is compulsory.⁹³

Final decision and reasons

151. Given the support noted above and reasons discussed below, we have maintained our draft decision. We will:
- 151.1 remove 'Attachment A – Application form to be considered a vulnerable consumer' from the Code;
 - 151.2 amend the guidance note in Section F2 of the Previous Code (now Section G2 of the Code) to state that the template can be found on our website; and
 - 151.3 publish an amended application form on the Commission website as an editable template.
152. We note that we have amended the application template published on our website to better align it with the requirements under clause 14 of the Previous Code (now clause 18 of the Code) as the previous template requested information beyond that specified as required.
153. Clause 18 outlines the information required for an application by a consumer (or someone on their behalf) to be deemed as complete. Clause 18.2 only requires the full name and contact details of a person if they are applying on behalf of the consumer.
154. The application form template in Attachment A of the Code stated that the form could only be completed by:
- 154.1 a customer (the account holder);
 - 154.2 a person who is listed as an authority on the customer's account; or
 - 154.3 the customer or person listed as an authority on the customer's account on behalf of someone who lives at the premises where the home phone line is supplied.
155. The information noted in paras 154.1-154.3 above does not align with the requirements in clause 14.2 of the Previous Code (now clause 18.2 of the Code).

⁹³ Age Concern "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 2.

156. This wording was included in the application form template following feedback from Spark on the 2020 Draft Code referencing providers' obligations under the Privacy Act 2020 regarding customer's information.⁹⁴
157. We agree with Spark that providers must take their privacy obligations seriously and encourage them to put the appropriate mechanisms in place to do so. We also clarify that we do not expect third parties (ie, someone applying on behalf of a customer) to ask providers about information provided by a vulnerable consumer as part of their application form, or about their accounts in general.
158. However, subject to privacy law requirements, we do expect providers to contact people applying on the consumer's behalf to discuss the information provided in the application form, regardless of whether they are an authority on the consumer's account or not.
159. Finally, in response to earlier feedback on the length and complexity of the application form template, when preparing the template for publication on our website we have simplified and streamlined how it is presented. This has involved a slight reordering of questions and guidance, alignment of language and clear references to the questions required to be filled out.
160. We believe this should now be easier to use for consumers, and we encourage providers to produce their own form in a way that is accessible and best meets the needs of their consumers, as well as their own processes.

AMENDMENTS TO THE REQUIREMENT ON PROVIDERS TO PROVIDE VULNERABLE CONSUMERS WITH AN APPROPRIATE MEANS FOR CONTACTING THE 111 EMERGENCY SERVICE

What the Act and Previous Code require

161. The Act sets out that the Code must require providers to supply vulnerable consumers, at no cost to the vulnerable consumer, with an appropriate means for contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure.⁹⁵
162. The Previous Code sets out that appropriate means is a means that is appropriate for the vulnerable consumer's specific circumstances, considering their physical, mental, and technical capabilities.⁹⁶
163. The Previous Code also set out that any means supplied to a vulnerable consumer must be able to be operated at the vulnerable consumer's premises for the minimum period in a power failure.⁹⁷ The minimum period set out in the Previous Code is a

⁹⁴ Spark noted that "Where a customer needs someone else to help them manage their account, with the explicit consent of the customer we can add that person as an additional authority on their account." Spark "Submission on draft 111 Contact Code" (17 July 2020) paras 94-96 and Appendix A.

⁹⁵ Section 238(3)(d).

⁹⁶ Clause 26 of the Previous Code (now clause 30 of the Code).

⁹⁷ Clause 27.3 of the Previous Code (now clause 31.3 of the Code).

continuous eight-hour period.⁹⁸ As part of the minimum period requirements under the Previous Code, the means must be fitted with a battery health indicator which is appropriate to the needs of the vulnerable consumer, and be replaced (or the battery that powers the means is replaced) at least once every 36 months from the date the last means was installed.⁹⁹

Replacement of appropriate means supplied to vulnerable consumers

Context and draft decision

164. We agreed with Spark’s submission on our Request for Views paper that the requirement to replace appropriate means at least once every 36 months is in some cases too often.¹⁰⁰ Replacing means that are still fit for purpose after 36 months does not offer any additional protections to consumers and incurs an unnecessary cost on providers. This also imposes unnecessary change for the vulnerable consumer.
165. Our draft decision was to:
- 165.1 remove the requirement in clause 29.3 of the Previous Code to replace means at least once every 36 months; and
 - 165.2 instead require providers to replace the appropriate means when the device no longer meets the minimum requirements under the Code.
166. We also noted clause 33 of the Previous Code requires providers to monitor whether a means remains appropriate on at least an annual basis, to ensure that the means it has provided to the vulnerable consumer remains appropriate and functional.

Submissions on our draft decision

167. Age Concern supported the proposed amendment.¹⁰¹
168. The TCF thought the suggested change was helpful but potentially created some issues as providers would now need to know how long batteries are lasting. It suggested flexibility by allowing devices to be replaced every 36 months if the device’s performance was unknown.¹⁰²

Final decision and reasons

169. Our final decision is to:
- 169.1 remove the requirement in clause 29.3 of the Previous Code (now clause 33.3 of the Code) for providers to replace the appropriate means at least once every 36 months; and

⁹⁸ Clause 4 of the Previous Code (now clause 6 of the Code), definition of “minimum period”.

⁹⁹ Clause 29 of the Previous Code (now clause 33 of the Code).

¹⁰⁰ Spark “Submission on 111 Contact Code Review Request for Views” (16 June 2023) para 26.

¹⁰¹ Age Concern “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 3.

¹⁰² TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) page 21.

- 169.2 amend the Code to require providers to test the appropriate means at least once every 36 months to ensure they remain appropriate and functional; and
- 169.3 amend the Code to clarify that providers must ensure the means remains appropriate and functional.
170. We appreciate the TCF's concern that our proposed amendment could provide some uncertainty for providers regarding compliance with the Code as soon as the battery of the means provided to the vulnerable consumer no longer meets the requirements under the Code.
171. However, we disagree with the TCF's proposed changes to clause 29.3 of the Previous Code (now clause 33.3 of the Code) to state that if the device performance is unknown, it should be replaced at least once every 36 months. We believe a requirement to confirm the appropriate and functional status of the device at a regular interval provides more clarity for both providers and consumers.
172. Our amendment requires providers to test a means at least once every 36 months to ensure they remain appropriate and functional. These tests must be at no cost to the customer, and this amendment doesn't replace section G3 of the Previous Code (now Section H3 of the Code) (Requirement to monitor), which requires providers to, at least once a year, ensure that the means it has provided to the vulnerable consumer remains appropriate and functional.
173. We expect that this amendment will help to ensure that a vulnerable consumer's means will continue to meet the requirements under the Code while also minimising unnecessary cost to providers.

When a means can be considered appropriate

Context and draft decision

174. In our Request for Views paper, we asked whether interested parties believed that the solutions that have been provided to vulnerable consumers have been effective in providing an appropriate means of contacting the 111 emergency service during an outage.¹⁰³
175. In response, Spark and the TCF noted that there would be unnecessary compliance uncertainty for providers where an appropriate means is compliant with the Previous Code but is still rejected by the vulnerable consumer.¹⁰⁴ WISPANZ gave battery backup devices as an example of a solution that could comply with the Code but some vulnerable consumers dislike because of their size and/or LED displays.¹⁰⁵
176. In our Draft Decisions and Reasons paper we agreed that providers should not be penalised by a consumer's refusal to accept a solution that complies with the

¹⁰³ Commission "111 Contact Code Request for Views" para 41.

¹⁰⁴ Spark "Feedback on 111 Contact Code" (30 November 2022) para 12; and TCF "Submission on 111 Contact Code Review Request for Views" (19 June 2023) para 7.

¹⁰⁵ WISPANZ "Submission on 111 Contact Code Request for Views" (16 June 2023) page 3.

Previous Code. Our draft decision aimed to alleviate the concern that providers are unable to meet their obligations if a consumer is unwilling to accept a solution provided it otherwise complies with the Previous Code.

177. Our draft decision was to amend the Previous Code to:

177.1 state that if its requirements are met, the appropriate means supplied by a provider to the vulnerable consumer is deemed appropriate, whether the vulnerable consumer accepts it or not; and

177.2 require providers to make vulnerable consumers aware of the implications of rejecting the appropriate means.

178. In making these amendments we noted that providers must comply with clause 26 of the Previous Code in discharging their obligations. They must supply the vulnerable consumer with a means that is appropriate for their specific circumstance, taking into account in particular the consumers physical, mental and technical capabilities.

Submissions on our draft decision

179. Age Concern supports the proposed changes but also raised concerns as to whether the means being provided are appropriate when considering each consumer's specific situation, for example older people who may lack confidence in using technology.¹⁰⁶

180. The TCF welcomed the clarification that if the requirements are met, the appropriate means supplied by a provider to the vulnerable consumer is deemed appropriate, whether the vulnerable consumer accepts it or not.

181. The TCF further suggested that if a consumer does not accept the compliant device that their application should be considered withdrawn or declined.¹⁰⁷ The TCF explained that it should not be possible for providers' customers to be registered as a vulnerable consumer if they do not have a device, as this would break providers' processes which assume all vulnerable consumers have been provided with a device.

182. The TCF disagreed with how we had proposed to amend the Previous Code to require providers to inform consumers about the implications to vulnerable consumers if they reject the appropriate means supplied by the provider (in clause 6.6 of the Draft Amended Code). It argued that this information doesn't need to be disclosed upfront to all consumers, but could be explained later in the application form or "on the customer's website" as it would only be applicable for a subset of consumers.¹⁰⁸

¹⁰⁶ Age Concern "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) pages 3 & 4.

¹⁰⁷ TCF "Submission on draft amended 111 Code tracked changes" (1 March 2024) page 22.

¹⁰⁸ We assume the TCF meant on the 'provider's website'.

Final decision and reasons

183. Our final decision is to:
- 183.1 set out in the Code that if all code requirements are met, the appropriate means supplied by a provider to the vulnerable consumer is deemed appropriate, whether the vulnerable consumer accepts it or not;
 - 183.2 set out in the Code that a consumer’s application can be considered withdrawn if they reject the appropriate means which complies with the Code requirements;
 - 183.3 require providers to make vulnerable consumers aware of the implications of rejecting the appropriate means in the vulnerable consumer application form;
 - 183.4 add a requirement on providers to maintain accurate records of the number of withdrawn applications; and
 - 183.5 add a disclosure requirement on providers regarding the number of withdrawn applications.
184. We understand Age Concern’s feedback that some vulnerable consumers may have low confidence using technology, mobile phones for example. However, we note that the Code has provisions to ensure that the means provided to a vulnerable consumer are appropriate and consider their specific circumstance including their physical, mental and technical capabilities.¹⁰⁹ The Code also requires providers to provide clear instructions and guidance on how to operate the means and who to contact if there are any issues.¹¹⁰
185. In order to reduce unnecessary compliance uncertainty and costs for providers, we agree with the TCF that vulnerable consumer applications can be considered withdrawn if the vulnerable consumer rejects the appropriate means provided to them which complies with the requirements set out in section G of the Previous Code (now section H of the Code).
186. For clarity, there is nothing to stop that consumer from reapplying to be considered a vulnerable consumer.
187. Providers must continue to comply with clause 26 of the Previous Code (now clause 30 of the Code) which requires providers to supply the vulnerable consumer with a means that is appropriate for their specific circumstances, taking into account in particular the consumer’s physical, mental and technical capabilities.
188. We have added a disclosure requirement regarding the number of ‘withdrawn’ applications, where a consumer rejects a means. This will support our understanding

¹⁰⁹ Clause 26 of the Previous Code (now clause 30 of the Code).

¹¹⁰ Clause 27.5 of the Previous Code (now clause 31.6 of the Code).

of awareness and effectiveness of the Code and shouldn't add significant compliance burden on providers.

189. For clarity, we do not see data on withdrawn applications being included in the provisioning timing disclosure requirement. That will remain focused on appropriate means which are accepted by the vulnerable consumer.
190. We also agree with the TCF's feedback that not all consumers require information regarding the implications of rejecting an appropriate means. As such, we have removed our previous proposed amendment to clause 6 of the Previous Code (now clause 8 of the Code), and instead require the information to be communicated, in an easily accessible and discernible way, in the vulnerable consumer application form. This includes the information that even if the consumer rejects an appropriate means, they (or someone on their behalf) can re-apply to be a vulnerable consumer. We have included this information in the application form template published on our website.
191. Finally, we note that vulnerable consumers continue to be able to make a complaint in relation to matters arising under the code as per Section L of the Previous Code (now section M of the Code). This includes, as set out in clause 52.3 of the Code, if the vulnerable consumer disputes, "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".

AMENDMENTS TO CIRCUMSTANCES WHERE A CONSUMER MAY NO LONGER BE CONSIDERED VULNERABLE

What the Act and Previous Code require

192. The Previous Code sets out that a provider may consider a consumer to no longer be vulnerable in any of the following circumstances:¹¹¹
 - 192.1 where the consumer (or someone on their behalf) requests that they no longer be regarded as a vulnerable consumer;
 - 192.2 where the consumer no longer resides at the premises where the retail landline service was supplied when the consumer submitted their application to be a vulnerable consumer to the provider;
 - 192.3 where the consumer obtains (by a manner other than through their provider under this Code) 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; or
 - 192.4 a provider has asked for the consumer's application to be resubmitted in accordance with clause 26 and the application has not been resubmitted.

¹¹¹ Clause 35 of the Previous Code.

193. The Previous Code also sets out that a consumer has the responsibility to inform their provider if they are no longer vulnerable (or will no longer become so).¹¹²

Vulnerable status when moving premises

Context and draft decision

194. Our draft decision was to:
- 194.1 remove clause 35.2 of the Previous Code, so that if a vulnerable consumer moves premises and remains with the same provider that consumer does not necessarily automatically lose their vulnerable status; and
 - 194.2 add a new clause stating that the provider may check the consumer’s status when they move premises, and may require them to re-apply if something material has changed in relation to the vulnerable consumers status.
195. We agreed with Consumer NZ’s feedback on our Request for Views paper that the requirement in clause 35.2 of the Previous Code was not fit for purpose.¹¹³ In this regard, such a requirement could put vulnerable consumers who move premises at risk of being without protection if they lose their vulnerable status.

Submissions on our draft decision

196. The TCF submitted that the wording of clause 37 of the Draft Amended Code be adjusted so that providers only have obligations if the consumer notifies the provider that they have moved premises.¹¹⁴
197. Age Concern do not agree with the proposed amendments when a consumer moves premises.¹¹⁵ Age Concern stated that moving house is a common occurrence and does not imply that a person is no longer a vulnerable consumer.

Final decision and reasons

198. We have retained our draft decisions. Our final decision is:
- 198.1 remove clause 35.2 of the Previous Code (otherwise now clause 42.2 of the Code) which sets out that a provider is permitted to regard a consumer as no longer being vulnerable if they move premises; and
 - 198.2 add a new clause 42 which states “If a vulnerable consumer moves premises and remains with the same provider, such provider may check the consumer’s status, and may require the vulnerable consumer (or someone on their behalf) to re-apply to demonstrate that they continue to be a vulnerable consumer if something material has changed”.

¹¹² Clause 36 of the Previous Code.

¹¹³ Consumer NZ “Submission on 111 Contact Code Review Request for Views” (15 June 2023) page 3.

¹¹⁴ TCF “Submission on draft amended 111 Code tracked changes” (1 March 2024) page 23.

¹¹⁵ Age Concern “Submission on draft amended 111 Code and draft decisions and reasons paper” (March 1 2024) page 3.

199. We do not believe there is a need to adjust the wording regarding notification by consumers as suggested by the TCF. The proposed clause provides no obligation on providers, stating the provider “may check the consumer’s status”. This remains at the discretion of the provider.
200. Similarly, in response to Age Concern’s submission, we note that this new clause does not automatically mean a consumer loses their vulnerable status or must re-apply when moving premises. The requirement to re-apply is only when a provider requests it, and only if they deem something material has changed, such as when a consumer may have transitioned out of an unsafe household.

AMENDMENTS TO REQUIREMENTS ON PROVIDERS TO DISCLOSE INFORMATION

What the Previous Code required

201. The Previous Code required that no later than 30 November of each disclosure year, a provider must disclose to the Commission specified information in respect of the preceding disclosure year.¹¹⁶ These requirements help to meet the purpose of the Code, as they assist us to monitor compliance with the Code.
202. The specified information that providers were required to under the Previous Code included:
- 202.1 a description and supporting evidence of the process that a provider has implemented for the purpose of satisfying the consumers information related requirements (under clauses 6 and 7 of the Previous Code),¹¹⁷ and the vulnerable consumer application related requirements (under clauses 13-24 of the Previous Code);¹¹⁸
 - 202.2 metrics around customer numbers and the number of vulnerable consumer applications (both accepted and declined) and appropriate means supplied;¹¹⁹ and
 - 202.3 the average number of working days from the point at which an application is submitted to the point at which the vulnerable consumer is provided with appropriate means.¹²⁰

Disclosure of time taken to provide appropriate means to consumers

Context and draft decision

203. In response to our Request for Views paper, Spark submitted that providing the average number of working days does not provide meaningful information and is not

¹¹⁶ Section J of the Previous Code (now section K of the Code).

¹¹⁷ Clause 38.1 of the Previous Code (now clause 45.1 of the Code).

¹¹⁸ Clause 38.2 of the Previous Code (now clause 45.2 of the Code).

¹¹⁹ Clauses 38.3-38.6 of the Previous Code (now clauses 45.3, 45.4, 45.6, and 45.8 of the Code).

¹²⁰ Clause 38.7 of the Previous Code.

representative of a provider’s processes. Spark also noted that the working day numbers differ based on when they are calculated from.¹²¹

204. In response to Spark’s submission, we noted in our Draft Decisions and Reasons paper that clause 27.1 of the Previous Code specifies that the ‘reasonably practicable’ requirement should be calculated ‘following the acceptance of a consumer’s application’ and that clause 18 of the Previous Code requires that a consumer application must be accepted or declined within working 10 days of a completed application being received.¹²²
205. We agreed with Spark on the limitations of overall average provisioning times. In particular, we noted that requiring the number of working days to be presented as an average across all vulnerable consumers does not allow us to identify unreasonably long provisioning times. One outlier may also distort the average, which would then not be representative of the efforts the provider had made to supply the device as soon as reasonably practicable.
206. We noted in our Draft Decisions and Reasons paper that providers would not necessarily be considered non-compliant if they take more time to provide the means, as non-compliance is determined by whether the means was supplied as soon as reasonably practicable. We further noted that we wanted to focus this reporting requirement on this step, one which providers have control over, to ensure vulnerable consumers receive their appropriate means within a reasonable timeframe.
207. Our draft decision was to amend clause 38.7 of the Previous Code to:
 - 207.1 no longer require providers to disclose the average number of working days from the date the consumer’s application is submitted to the point that the vulnerable consumer is provided with appropriate means to contact the 111 emergency service; and
 - 207.2 require providers to disclose the provisioning timing to provide appropriate means to contact the 111 emergency service for each new vulnerable consumer (ie, from the date that their application was accepted) in the applicable disclosure year, with a reason for any provisioning that took longer than 10 working days.

Submissions on our draft decision

208. Age Concern supported the proposed amendments. They also suggested that the Commission should require providers to disclose the length of time it takes for each application to be processed (ie, a decision made) from the date it is received by the

¹²¹ Spark “Feedback on 111 Contact Code” (30 November 2022) paras 35-39.

¹²² Commission “111 Contact Code Review Draft Decisions and Reasons paper” (18 December 2023) para 85.

provider.¹²³ They believe it would be useful information alongside the time to provide means as described previously.

Final decision and reasons

209. We have retained our draft decisions set out in our Draft Decisions and Reasons paper. Our final decision is to:

209.1 no longer require providers to disclose the average number of working days from the date the consumer’s application is submitted to the point that the vulnerable consumer is provided with appropriate means to contact the 111 emergency service; and

209.2 require providers to disclose the provisioning timing to provide appropriate means to contact the 111 emergency service for each new vulnerable consumer (counting from the date that their application was accepted) in the applicable disclosure year, with a brief reason for any provisioning that took longer than 10 working days.

210. Our compliance monitoring has not indicated any delays in processing applications by providers, nor have we received any evidence or complaints that applications are taking too long to process by providers.

211. As such, we do not believe that we should require providers to disclose application processing times as suggested by Age Concern. The processing times can vary greatly, and this is often outside of the providers control such as when information is missing from the application, or the applicant is not prioritising their responses to providers. Having additional reporting requirements would introduce an unnecessary compliance burden on providers. Additionally, this information would not enable the Commission to identify breaches of the Code and would provide little to no benefit for consumers.

Disclosure of accepted applications

Context

212. Our work to promote compliance with the Previous Code highlighted that we don’t have a complete view of vulnerable consumers, including those new each year, and those who are no longer vulnerable consumers. Having information on the number of applications each provider accepts during the disclosure year would provide a more complete view, supporting the Commission’s monitoring of compliance with the Code, and its ongoing effectiveness.

Final decision and reasons

213. Our final decision is to amend the Previous Code to:

¹²³ Age Concern “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) pages 3 & 4.

- 213.1 require providers to maintain accurate records of the number of accepted applications; and
- 213.2 require providers to disclose the number of accepted applications during the disclosure year.
- 214. We note that this change wasn't in our Draft Decisions and Reasons paper. It came to our attention that it would be valuable information in late 2023/early 2024, as we were processing and analysing the latest 111 disclosure data.
- 215. We anticipate this data will already be collected and held in some form by most providers, and so we expect it should be relatively simple to extract and include as part of annual information disclosures. We have selected this additional data point from several options to provide a clearer view of vulnerable consumer numbers, due to the low impact reporting on it will have on providers.
- 216. This data will allow us to see the number of temporary vulnerable consumers for the first time. It will also, in conjunction with data that is already disclosed, provide more confidence in what the total number of vulnerable consumers is at any point in time.

Chapter 4 No amendments to the Previous Code

217. In submissions on our Request for Views paper, submitters put forward suggestions that they considered would improve the effectiveness of the Previous Code. Our view in our Draft Decisions and Reasons paper was that no amendment to the Previous Code was necessary regarding these suggestions because either:
- 217.1 those changes would not better meet the purpose of the Code;
 - 217.2 it was already sufficiently covered in the Code; or
 - 217.3 it was unable to be changed (not within our powers to add, change or remove).
218. We didn't receive any further significant feedback on a number of these suggestions in response to the Draft Decisions and Reasons paper. As such we haven't included any further discussion on these in this paper. These topics include:
- 218.1 Clearer vulnerable consumer eligibility;
 - 218.2 Evidence of vulnerability;
 - 218.3 Impact of satellite technology;
 - 218.4 Network resiliency;
 - 218.5 Providers withdrawing landline services;
 - 218.6 Contribution of Local Fibre Companies to code-related costs;
 - 218.7 High compliance costs;
 - 218.8 Minimum period and limited market of appropriate means;
 - 218.9 Clarification of what is out of scope;
 - 218.10 Interested persons;
 - 218.11 Providers identification of vulnerable consumers;
 - 218.12 Use of term 'vulnerable' being potentially offensive; and
 - 218.13 Providers informing consumers about their right to independent information.
219. Below we outline our reasons for not making further amendments to the Code following suggestions made by submitters where further feedback was provided in submissions on the Draft Decisions and Reasons paper. We also outline our reasons for not making amendments to the Code following new suggestions raised in response to the Draft Decision and Reasons paper.

Lack of consumer awareness

Relevant background

220. Section 238(3)(b) of the Act sets out that the code must require the providers of specified telecommunications services to inform consumers about the options available for vulnerable consumers.
221. The Previous Code sets out the information providers need to make available to consumers, and contains a requirement on providers to remind consumers of such information at least every 12 months.¹²⁴
222. We received feedback that there has been a lack of awareness about the Previous Code, the risk of loss of services in a power failure, and the protections available to vulnerable consumers.

Draft decision and submissions

223. In our Draft Decision and Reasons paper we agreed that consumer awareness is critical to the effectiveness of the code and the protection that it offers vulnerable consumers. However, we believed that no further amendments to the Previous Code were required to enhance awareness.
224. Creating consumer awareness is a key requirement on providers under the Previous Code. For instance, further to the above in paragraph 221, the Previous Code requires providers to tell both new and existing customers of a retail landline service, at least once every 12 months, that their home phone may not work in a power failure at their premises and ways they can protect their household.¹²⁵
225. In our Draft Decisions and Reasons paper we noted that since the Previous Code came into force, we have undertaken compliance engagement work to promote compliance with the code. Following annual disclosures being provided to us by 30 November 2022 we conducted an industry-wide review of compliance with the Code.¹²⁶ Our compliance monitoring showed that some providers are not compliant with the consumer information provision requirements under the Previous Code. We further noted that this non-compliance would inevitably impact consumer awareness and that we were taking action to address these compliance concerns.
226. Age Concern and the TCF submitted that additional steps could be taken to increase awareness by consumers.^{127, 128} In particular, Age Concern suggested a national awareness campaign is required to increase knowledge of the Code, and, in

¹²⁴ Clause 6 of the Previous Code (now clause 8 of the Code) and clause 7 of the Previous Code (now clause 9 of the Code).

¹²⁵ Clauses 6.2, 6.3 and 7.3 of the Previous Code (now clauses 8.2, 8.3, and 9.3 of the Code).

¹²⁶ Following the conclusion of the 2021/22 code disclosure year. The Code includes information disclosure and record keeping requirements under section 238(4)(c) which we believe are necessary to achieve the purpose of the Code.

¹²⁷ Age Concern "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 3.

¹²⁸ TCF "Submission on draft amended 111 Code and draft decisions and reasons paper" (1 March 2024) page 2.

particular, the mandatory requirement on providers to provide vulnerable consumers with appropriate means of contacting the 111 emergency service in the event of a power failure.

227. The TCF supported our intention to continue to provide further information and work with advocacy groups. It suggested that we work with consumer advocacy organisations to increase consumer awareness of their rights under the Code eg, Grey Power. It also stated that providers already have extensive obligations to regularly communicate to their customers and suggested the Commission have a role to play in increasing awareness more broadly.

Final decision and reasons

228. We have retained our draft decision that the Previous Code requires no amendments in order to enhance awareness of the code and the protections it provides.
229. We reiterate that the Act is clear in the requirement on providers under the code to inform consumers of retail landline services about the options available for vulnerable consumers. The Code further specifies this includes providers informing both new and existing customers of a retail landline service, at least once every 12 months, that their home phone may not work in a power failure at their premises and ways they can protect their household. We note that some of the changes regarding this information discussed above may support increased awareness.
230. As stated above, we are undertaking ongoing compliance monitoring and investigation work to ensure the Code requirements are met and consumers are made adequately aware of the Code and the protections it offers.
231. It is still our intention to continue to work with consumer advocacy groups (such as Grey Power) and with industry, to support appropriate additional understanding and increased awareness for consumers. This work is ongoing, and we consider that it requires a collective effort to ensure awareness and understanding of rights under the Code.
232. We note Age Concern’s suggestion of a national awareness campaign to increase knowledge of the Code. We believe the Code remains clear in its obligations on providers to inform consumers about the options available for vulnerable consumers. As stated above, we intend to continue to work with consumer advocacy groups and industry to support appropriate additional understanding and increased awareness for consumers.

Accessibility of code-related information

Relevant background

233. Information regarding the Code must be made accessible on the provider’s website in a manner that is consistent with the NZ Government Web Standards.¹²⁹ Information must also be made accessible to all consumers at the point sale,

¹²⁹ Clause 7.1 of the Previous Code (now clause 9.1 of the Code).

including via a number of mediums.¹³⁰ The application form must also be easily accessible for consumers, bearing in mind the needs of vulnerable consumers, and not unreasonably difficult for a consumer to fulfil.¹³¹

234. DPA and Whaikaha suggested that information about the Code should be made accessible and available in alternative formats such as New Zealand Sign Language or Easy Read.¹³²

Draft decision and reasons

235. Our draft decision was that we didn't believe an amendment was required to the Previous Code.
236. We noted in our Draft Decisions and Reasons paper that to make information about the Previous Code available in a range of accessible formats, such as in different languages, would result in a high compliance burden, particularly on smaller providers, so we did not consider that this should be a requirement under the Previous Code. We considered that larger providers may already have processes in place to make information on their websites accessible, and encouraged these providers to apply this to information about the Previous Code.
237. In response, RWNZ submitted that they support the proposed amendments and that they hope the requirement to provide information in an easily discernible manner also applied for consumers who do not have internet access as well as those for whom English is not their first language.¹³³

Final decision and reasons

238. We have retained our draft decision that the Previous Code requires no amendments in order to enhance accessibility of code information.
239. In regard to RWNZ's feedback, we note that providers can contact consumers in a range of ways, including via physical mail. This enables consumers without access to the internet to be informed about the code, and if applicable, apply to be deemed a vulnerable consumer.
240. We note that the Code specifies 'or persons on their behalf', which allows those for whom English is not their first language, to be supported to complete an application form.

Definition of minimum period

241. The Code defines the minimum period that an appropriate means of contacting the 111 emergency service can be operated for as "a continuous eight-hour period".

¹³⁰ Clause 7.2 of the Previous Code (now clause 9.2 of the Code).

¹³¹ Clause 13 of the Previous Code (now clause 16 of the Code).

¹³² DPA "Submission on 111 Contact Code Review Request for Views" (16 June 2023) page 5; and Whaikaha "Submission on 111 Contact Code Review Request for Views" (16 June 2023) page 1 & 2.

¹³³ RWNZ "Submission on draft amended 111 Code and draft decisions and reasons paper" (25 February 2024) page 2.

Draft decision and reasons

242. We proposed no amendments to this definition in our Draft Decisions and Reasons paper. This included no amendments to the minimum period of time appropriate means should last for.¹³⁴
243. In response to the Draft Decisions and Reasons paper, the TCF suggested that the definition of minimum period be amended to read “means a continuous eight-hour period *when used as recommended*”, as it mentions that its members regularly observe cases where consumers are plugging in multiple devices to battery packs, causing it to drain faster.

Final decision and reasons

244. We disagree with the TCF regarding the amendment of the definition of minimum period and as such haven’t amended the Previous Code.
245. We believe the Code is already clear enough regarding the obligations of providers regarding the provision and instruction on use of appropriate means. If consumers choose to ignore the instructions and guidance, that is their decision and not something the provider is responsible for.
246. We also don’t believe changing the definition will prevent consumers from connecting multiple devices to their battery pack or using their means for purposes other than contacting the 111 emergency service.

Other communication channels

Relevant background

247. In paragraph 187 of the Draft Decision and Reasons paper we noted that, “the text option for contacting 111 is currently limited to people that are deaf, hearing or speech impaired.”

Comments from submissions

248. In their submission on the Draft Decisions and Reasons paper, the NZ Police sought correction of wording regarding the text option for contacting 111.¹³⁵

Response

249. We thank the NZ Police for their clarification. We acknowledge that text messages to 111 are received by NZ Police, and that it will respond with resources as necessary and will advise Fire and Emergency New Zealand or Ambulance services of any response that may be required by those emergency service organisations.¹³⁶ We further note that the text option for contacting emergency services is currently limited to people with hearing or speech difficulties.

¹³⁴ See paras 155-162 of the Draft Decision and Reasons paper for our reasons.

¹³⁵ NZ Police “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 1.

¹³⁶ <https://www.police.govt.nz/111-txt>.

Commencement date

250. The Code amendments will come into force on 1 July 2024. However, there will be an enforcement grace period of six (6) months to allow for providers to come into full compliance with the Code, as amended. The grace period will end on 1 January 2025.
251. During the grace period, providers will be considered to have complied with the requirements of the Code, if they complied with the Code as it was prior to these amendments.
252. These dates reflect consideration of feedback we received regarding the commencement date of the Previous Code, as well as feedback through this engagement process regarding the application of the Code to Facilities.¹³⁷ We believe this grace period will provide sufficient time for providers to develop and/or update their processes to become compliant with the Code. This approach will also allow providers to make changes immediately, including where obligations have been removed such as the exclusion of business landline services.

¹³⁷ Bupa “Submission on draft amended 111 Code and draft decisions and reasons paper” (1 March 2024) page 5.

Appendix A: Relevant statutory provisions

9A Functions of the Commission in relation to sector monitoring and information dissemination

(1) In addition to the other functions conferred on the Commission by this Act, the Commission—

- (a) must monitor competition in telecommunications markets and the performance and development of telecommunications markets; and
- (b) may conduct inquiries, reviews, and studies (including international benchmarking) into any matter relating to the telecommunications industry or the long-term benefit of end-users of telecommunications services within New Zealand; and
- (c) must monitor compliance with the Commission 111 contact code; and
- (d) must make available reports, summaries, and information about the things referred to in paragraphs (a) to (c); and
- (e) must monitor retail service quality in relation to telecommunications services; and
- (f) must make available reports, summaries, and information about retail service quality in a way that informs consumer choice.

(2) The functions in subsection (1)(d) and (f) do not require the Commission to release all documents that the Commission produces or acquires under this section or [section 10A](#).

238 Commission 111 contact code

(1) The Commission must make a code for the purpose of ensuring 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.

(2) The code must be made before the implementation date.

(3) The code must—

- (a) specify which telecommunications services it applies to; and
- (b) require the providers of those services to inform consumers about the options available for vulnerable consumers; and
- (c) prescribe a process (or processes) for a consumer of those services, or a person on their behalf, to demonstrate that they—

(i) are a vulnerable consumer; or

(ii) will become a vulnerable consumer; and

(d) require the providers of those services to supply vulnerable consumers, at no cost to the consumers, with an appropriate means for contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure; and

(e) specify the minimum period for the purposes of paragraph (d).

(4) The code may do 1 or more of the following:

(a) specify classes of people that must be considered vulnerable consumers:

(b) specify appropriate means for vulnerable consumers, or persons on their behalf, to contact emergency services:

(c) contain any other provisions that are necessary or desirable to achieve the purpose in subsection (1).

(5) In this section,—

minimum period means the minimum period specified under subsection (3)(e)

specified telecommunications service means a telecommunications service specified in the Commission 111 contact code as a service to which the code applies

vulnerable consumer means a consumer of a specified telecommunications service who—

(a) is at particular risk of requiring the 111 emergency service (for example, due to a known medical condition); and

(b) 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.

(6) A Commission 111 contact code, and any amendment to or revocation of the code, is secondary legislation (see [Part 3](#) of the Legislation Act 2019 for publication requirements).

239 Process for making or amending Commission code

(1) In order to make a Commission code, the Commission must—

(a) give public notice of the process that will be followed to make the code; and

(b) consult with interested persons; and

(c) give public notice of a draft code.

(2) If the code is a Commission 111 contact code, **interested persons** includes the following:

(a) the New Zealand Police:

(b) Fire and Emergency New Zealand:

(c) the Director of Civil Defence Emergency Management:

(d) every provider of an initial call answering point for the 111 emergency service.

(3) A person is entitled to make submissions to the Commission not later than 30 working days after the date on which public notice of the draft code is given.

(4) The Commission may make the code only if the Commission is satisfied that the draft code meets all the requirements set out in this Part.

(5) The Commission may amend or revoke a code if the Commission considers that the code no longer meets all the requirements set out in this Part.

(6) The same procedure that applies to making a code in subsections (1) to (4) must be followed to make an amendment or a revocation, with any necessary modifications.

(7) *[Repealed]*

240 Dispute resolution scheme

(1) The dispute resolution scheme for all Commission codes is—

(a) an industry dispute resolution scheme; or

(b) if Part 4B comes into force in accordance with section 156S, a consumer complaints system—

(i) that is appointed under that Part; and

(ii) that the Minister declares under this section to be the dispute resolution scheme for Commission codes.

(2) A scheme provider for an industry dispute resolution scheme must, on request by the Minister or the Commission, provide information on matters relating to any information or reports relevant to the administration of a Commission code.

(3) [Sections 241 to 245](#) apply unless Part 4B comes into force.

241 Disputes may be referred to industry dispute resolution scheme

(1) A dispute between a consumer and a telecommunications service provider about their rights and obligations under a Commission code may be referred to an industry dispute resolution scheme by any of the parties to the dispute.

(2) Disputes that may, depending on the relevant Commission code, be referred to an industry dispute resolution scheme include disputes about the following:

(a) installation times:

(b) how consumer complaints are handled:

(c) other matters provided for in the code or by the industry dispute resolution scheme.