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Public Version

[Draft] Commission 111 Contact Amended Code 2023

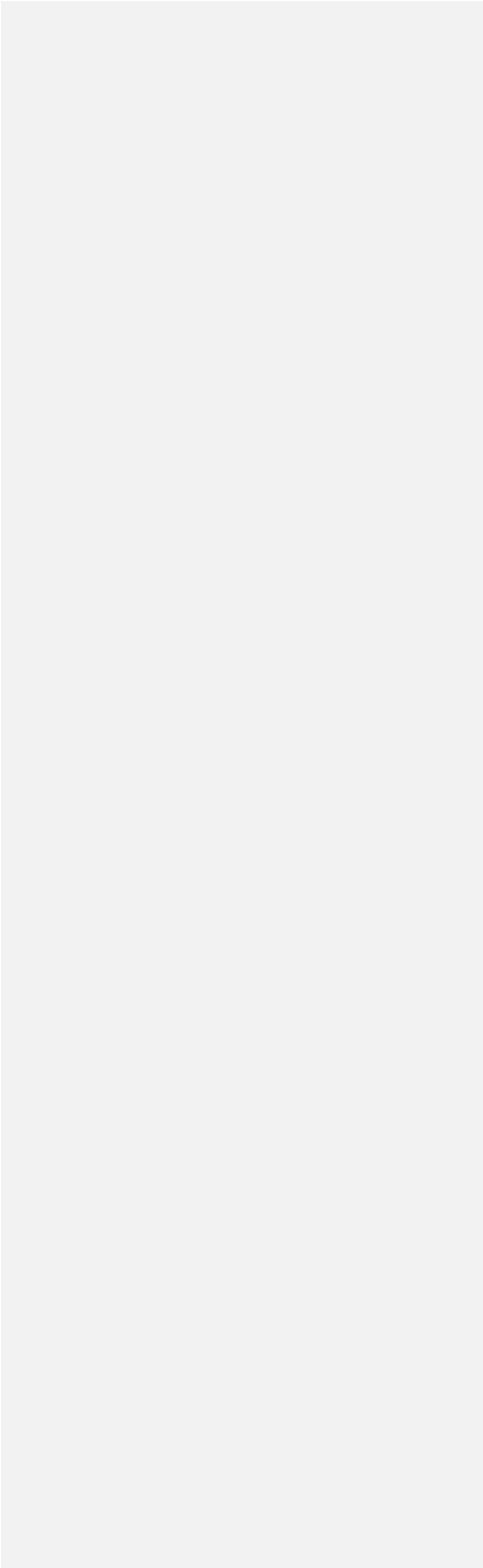
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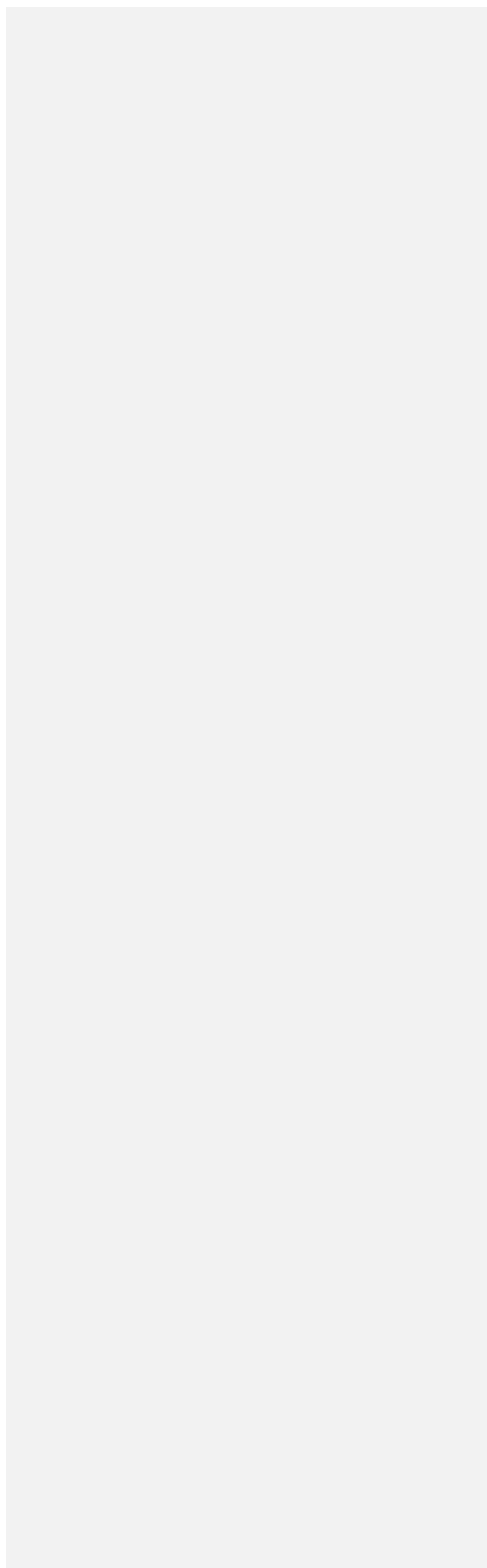
Code history

Publication date	Reference	Title
17 November 2020	ISBN 978-1-869458-52-2	Commission 111 Contact Code
18 December 2023	ISBN 978-1-991085-62-7	Commission 111 Contact Amended Code [2024]



Drafting notes:

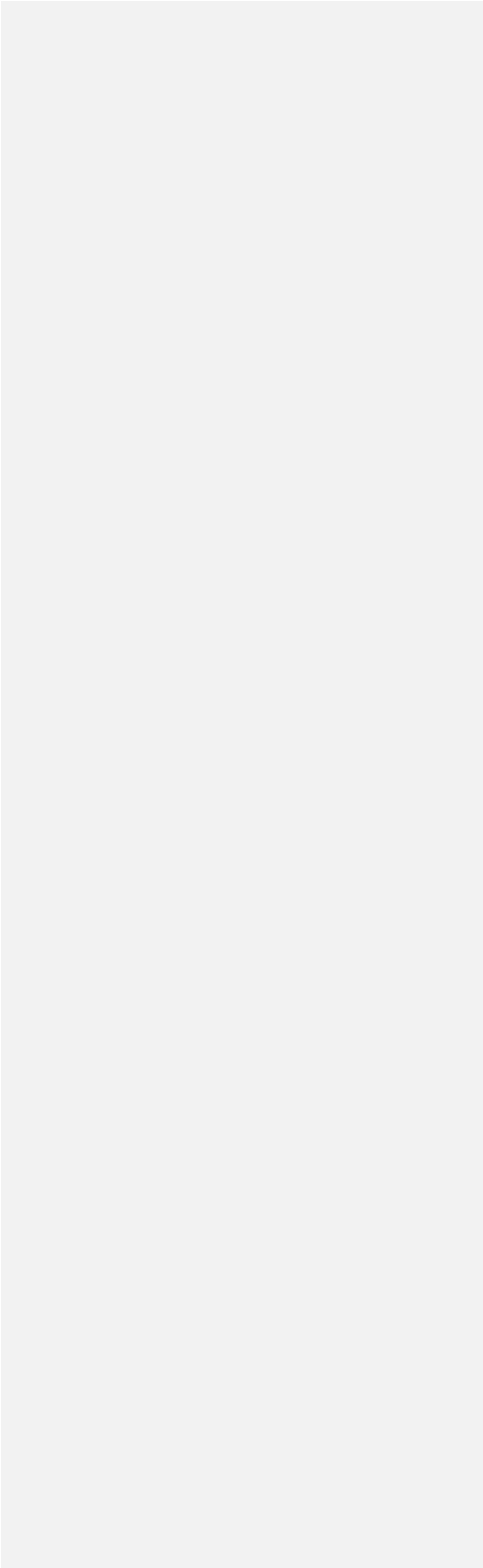
This [Draft] Commission 111 Contact Amended Code [2024] amends the Commission 111 Contact Code ISBN 978-1-869458-52-2 (Code) following a review to assess the operation of the Code and identify any improvements to better meet the minimum requirements in the Telecommunications Act 2001. Amendments to the Code are marked as tracked changes.



[Draft] Commission 111 Contact Amended Code

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- I. Title
- II. Amended Code
- III. Commencement and application



I. Title

1. This is the [Draft] Commission 111 Contact Amended Code (Amended Code).
2. This Amended Code amends the Commission 111 Contact Code ISBN 978-1-869458-52-2 (Code).

II. Amended Code

3. This Amended Code amends the Code as follows:
 - 3.1 Appendix A replaces the associated documents page of the Code.
 - 3.2 Appendix B replaces the table of contents page of the Code.
 - 3.3 Appendix C replaces the (i) introduction to the Code and (ii) body of the Code.
4. The deletions, substitutions, and additions are all marked as tracked changes.

III. Commencement and application

5. This Amended Code comes into force on a date that is 3 months following the publication of the Amended Code.

APPENDIX A

Associated documents

Publication date	Reference	Title
12 September 2019	ISBN 978-1-869457-55-6	Commission 111 Contact Code Emerging Views Paper
11 March 2020	ISBN 978-1-869458-02-7	Commission 111 Contact Code: Draft Decisions and Reasons Paper
11 March 2020	ISBN 978-1-869458-01-0	Draft Commission 111 Contact Code
11 March 2020	2020-au1101	New Zealand Gazette Notices “Notification of Commerce Commission’s Draft 111 Contact Code”
17 November 2020	ISBN 978-1-869458-53-9	Commission 111 Contact Code: Decisions and Reasons Paper
17 November 2020	2020-au5242	New Zealand Gazette Notices “Notification of Commerce Commission’s 111 Contact Code”
17 November 2020	ISBN 978-1-869458-52-2	Commission 111 Contact Code
18 May 2023	ISBN 978-1-991085-00-9	111 Contact Code Review - Request for views on the effectiveness of the 111 Contact Code in meeting the requirements in the Act
18 December 2023	ISBN 978-1-991085-63-4	111 Contact Code Review – Draft decisions and Reasons

Commerce Commission
Wellington, New Zealand

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Introduction to the Commission 111 Contact Code

As consumers transition away from using traditional copper voice services to new telecommunications technologies, they may be unable to contact the 111 emergency services during a power failure at their premises. This is because some new telecommunications technologies and devices will not work in a power failure (such as fibre, fixed wireless, cordless phones and medical alarms with no inbuilt battery). Calling 111 is the primary means to request emergency assistance from the ambulance, police and fire and emergency services.

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

The Code sets out mandatory requirements on providers of [retail residential](#) landline services to provide vulnerable consumers with appropriate means of contacting the 111 emergency services in the event of a power failure. The Code also requires these providers to inform consumers of the options available for vulnerable consumers to contact the 111 emergency service in the event of a power failure (including information on what telecommunications technologies and devices may not work in a power failure), and to disclose certain information to the Commission each year (such as how many vulnerable consumers the provider has).

The Code primarily affects current and future vulnerable consumers of [retail residential](#) landline services, and their retail providers.

The Code is administered by the Commerce Commission. More information about the Commission 111 Contact Code can be found on the Commission website here: <https://comcom.govt.nz/regulated-industries/telecommunications/projects/commission-111-contact-code>.

A. Commencement date

1. This Code ~~comes~~came into force as follows:
 - 1.1 Section G ~~comes~~came into force on 1 August 2021; and
 - 1.2 the rest of this Code ~~comes~~came into force on 1 February 2021.

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

B. Application

2. This Code applies to ~~retail~~residential landline services.

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

C. Purpose

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

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

D. Defined terms

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

111 emergency service includes the ambulance service, police service and fire and emergency service;

Act means Telecommunications Act 2001;

at particular risk of requiring the 111 emergency service has the meaning given at clause 10;

business landline services means 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;

Code	means <u>this</u> Commission 111 Contact Code;
Commission	means <u>the</u> Commerce Commission;
consumer	<p>Hhas the same meaning as given in section 232 of the Act, and, in the case of a retail<u>residential</u> landline service, includes:</p> <ul style="list-style-type: none">(a) the customer; and(b) a person who ordinarily resides at the premises where the retail<u>residential</u> landline service is supplied;
consumer's application	<p>means an application made by a consumer of a retail<u>residential</u> landline service (or someone on behalf of that consumer), to a provider for the purposes of demonstrating that:</p> <ul style="list-style-type: none">(a) the customer is (or will become) a vulnerable consumer; or(b) a person who ordinarily resides at the customer's premises is (or will become) a vulnerable consumer;
copper landline service	means a landline service provided over a copper line using traditional analogue copper voice technology, but excludes any voice service that is provided using technologies (hardware or software) that rely on mains powered electricity at the premises;
customer	means a consumer who has a contract with a provider for the supply of a retail <u>residential</u> landline service;
family violence	has the same meaning as given in section 9 of the Family Violence Act 2018;
disclosure year	means a period of 12 months beginning on 1 July in any year and ending on 30 June in the following year;
health practitioner	means a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession under the Health Practitioners Competence Assurance Act 2003;

industry dispute resolution scheme	has the same meaning as given in section 232 of the Act;
landline service	means a voice service provided over a fixed-line or fixed wireless;
minimum period	means a continuous eight-hour period when used as recommended ;
naked broadband services	means a broadband service provided over a fixed-line or fixed wireless that is provided without a voice service;
network	has the same meaning as given in section 5 of the Act;
nominated person	means the person that has been nominated in a consumer's application in accordance with clause 14.8.1;
Notice of Potential Medically Dependent Consumer (MDC) Status	means the form provided at Appendix A of the Electricity Authority's 'Guidelines on arrangements to assist medically dependent consumers', as updated from time to time and is available from the Electricity Authority's website here: https://www.ea.govt.nz/operations/retail/retailers/retailer-obligations/medically-dependant-and-vulnerable-customers/ ;
NZ Government Web Standards	Means <i>Web Accessibility Standard 1.1</i> and <i>Web Usability Standard 1.3</i> (as amended from time to time, and any subsequent Standards that supplement or replace these Standards), issued by the New Zealand Government, effective from 1 July 2019, and, as updated from time to time are available from the Digital.govt.nz website here: https://www.digital.govt.nz/standards-and-guidance/nz-government-web-standards/new-web-standards-for-july-2019/ ;
power failure	means an interruption in the supply of electricity to a premises;
premises	means a house or building that: <ul style="list-style-type: none"> (a) is used or intended for occupation residence by any person; and (b) is receiving a retail residential landline service;
protection order	means an order, or a temporary order, made under section 79 of the Family Violence Act 2018;

Commented [redacted]: We propose this additional wording to clarify that the battery pack should be able to operate for the minimum period (i.e. 8 hours) when used as recommended. The purpose of the battery pack is for vulnerable customers to be able to contact 111 emergency services in a power cut. In order for this purpose to be fulfilled, the battery must support relevant hardware for the 111 calls to be made for the minimum period, i.e. ONT, modem and a single home phone. Providers give information to customers about how the battery packs should be used and highlight the risks if customers plug in multiple additional devices, namely that the battery will drain faster and may not be able to support 111 calling for the minimum period. However, despite this, our members regularly observe cases where customers plug in multiple devices (e.g. fridges, TVs and other household appliances). When a number of these devices are plugged in on an ongoing basis, the battery is likely to drain faster and may not support 111 calling for the continuous 8 hour period. It would be helpful if the Code acknowledged that providers' obligation is to support 111 calling for the minimum period, not provide a battery pack that can support other use cases for the same period

provider	means a supplier or suppliers of a retail residential landline service <u>to a consumer</u> ;
retail residential landline service	means a landline service provided to a consumer at a premises, and excludes: <ul style="list-style-type: none"> (a) mobile services; (b) naked broadband services; and <u>(c) applications that provide voice services over broadband services (such as Skype); and</u> (d) <u>(copper landline services; and</u> (e) <u>business landline services.</u>
telecommunication	means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not;
telecommunications service	means any goods, services, equipment, and facilities that enable or facilitate telecommunication;
uninterruptible power supply	means a device that provides emergency power in a power failure and provides near-instantaneous protection from power interruptions; and
vulnerable consumer	has the meaning given in clause 9.

Commented [redacted]: Additional wording proposed because the Code is focused on the Vulnerable Consumer scheme which is not available to customers on 'copper landline services' (as those are defined above). So these can be excluded from the definition of a 'residential landline service' and just called out individually in the Code where appropriate (eg section 8)

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

5. A provider must provide information to consumers on the options available for consumers, including vulnerable consumers, to contact either directly or through a third party provider the 111 emergency service in the event of a power failure at the customer's premises.
6. For the purposes of clause 5, the information must specify:
 - 6.1 which telecommunications technologies may not work in a power failure (including fibre and fixed wireless), and the impact this may have on a consumer's ability to contact the 111 emergency service;
 - 6.2 which telecommunications devices may not work in a power failure (including cordless phones and medical alarms if they do not have an inbuilt battery), and the impact this may have on a consumer's ability to contact the 111 emergency service;

Commented [redacted]: We propose that wording be added to clarify that that 'contact 111 emergency service' does not only mean calling the 111 service, it can also mean access to a 111 emergency service (ambulance, police, fire) via a medical alarm provider

6.3 alternative means of contacting the 111 emergency service in the event of a power failure;

6.4 who is a vulnerable consumer for the purposes of the Code, including the definition of a vulnerable consumer and the process a consumer may follow to demonstrate they are a vulnerable consumer;

6.5 that a provider must supply a vulnerable consumer, at no cost to that consumer, with an appropriate means of contacting the 111 emergency service that can be operated for the minimum period in the event of a power failure at the vulnerable consumer's premises;

~~6.5~~6.6 the implications to vulnerable consumers if they reject the appropriate means supplied by the provider (given the consequences set out in clause 31);

~~6.6~~6.7 that a provider cannot deny or cease supply of a ~~retail~~residential landline service on the basis that the provider knows or suspects a consumer is, or may become, a vulnerable consumer;

~~6.7~~6.8 how a consumer can contact the provider to discuss any of the information provided (including whether they, or someone they know, may be a vulnerable consumer); and

~~6.8~~6.9 how a consumer may make a complaint in relation to a matter arising under the Code, including that:

~~6.8-16.9.1~~ a dispute between a consumer and a provider about their rights and obligations under the Code may be referred to an industry dispute resolution scheme by the customer or the provider;

~~6.8-26.9.2~~ where a dispute under the Code concerns a consumer who is not the customer (ie they are a person who ordinarily resides at the customer's premises), the customer at the premises where the consumer resides may refer the dispute to an industry dispute resolution scheme on behalf of that consumer; and

~~6.8-36.9.3~~ a consumer may make a complaint to the Commission regarding the provider's compliance with the Code, but the primary method for making a complaint is to refer a dispute to an industry dispute resolution scheme.

7. The information listed in clause 6 must be provided to consumers in the following ways:

7.1 made easily accessible to all consumers on the provider's website in a manner that is consistent with the NZ Government Web Standards;

Commented [redacted]: Section 6 contains a list of all information which must be provided to customers (section 7 and 8 explains how, where and when this information should be given to consumers).

While we welcome the clarification in Clause 31, we consider information on the consequences of rejecting an appropriate means is something which can be explained to the customer later in the application form or on the customer's website.

Including this new paragraph in 6.6 means it will need to be provided to everyone as part of the information about the Vulnerable Consumer scheme, whereas it will only be relevant for a subset of customers.

Instead we propose this information need only be explained to customers in the case where the customer wishes to reject the the appropriate means, as it is only relevant in this scenario

7.2 made easily accessible to all consumers 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;

7.3 provided to all customers of a ~~retail~~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:

7.3.1 by the customer's preferred method of contact (eg, email, phone call); or

7.3.2 if the provider does not know the customer's preferred method of contact, in writing in an easily discernible manner; and

7.4 provided in an easily discernible manner to all customers of a ~~retail~~residential landline service when:

7.4.1 the customer first contracts with the provider for the ~~retail~~residential landline service; and

7.4.2 the customer switches between telecommunications technologies or services with the provider (including any switch that means the telecommunications technology or service will not work in a power failure)

such that the customer is not able to purchase a residential service or switch between telecommunications technologies or services without being aware of such information.

8. For the purposes of:

8.1 clauses 6.1, 6.2 and 6.3, notwithstanding anything else in this Code, this information must also be provided to a person when they first contract with a provider for the supply of a naked broadband service or a copper landline service; and

8.2 clause 6.4, the information must note the existence and purpose of the written application form referred to in clause 13.3, and ensure the form is readily available to consumers; and

8.3 clauses 7.3, 7.4 and 8.1, the requirement to provide information will be met where a provider provides a link to the required information and adequately describes what information is available at the link.

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

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

F1 Definition of a vulnerable consumer

Commented [redacted]: We proposed that this wording is removed for operational simplicity

Commented [redacted]: The additional clause is unnecessary. Providers should be compliant to the requirements already set out in cl. 7, without having an overly specific additional requirement in the Code.

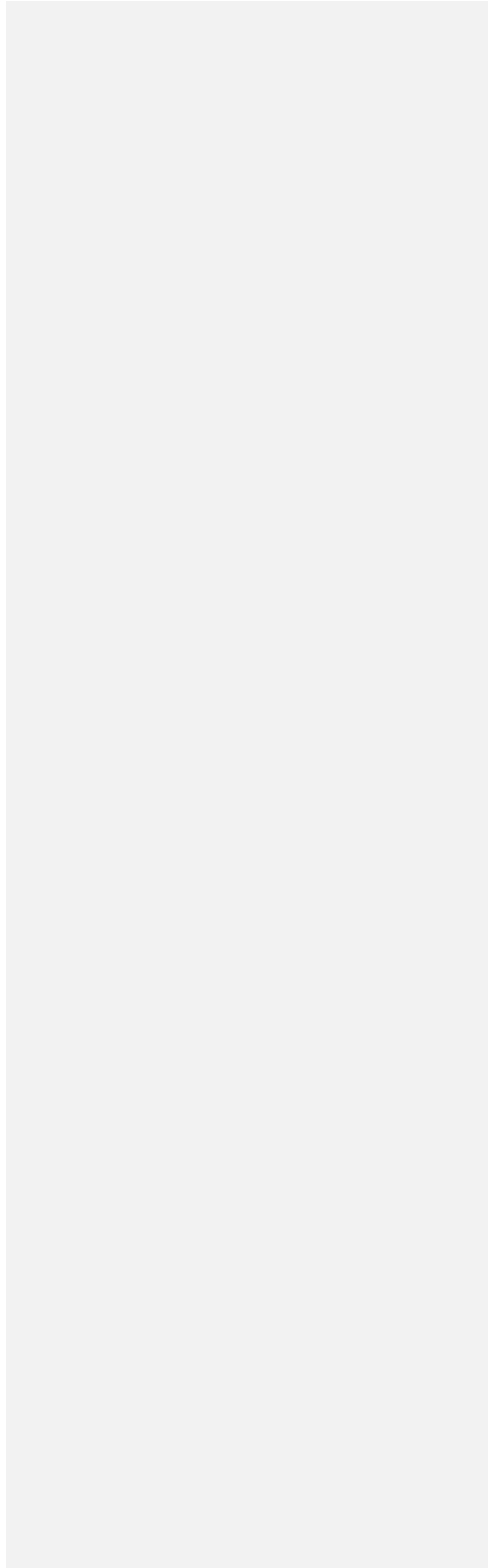
The TCF does not see this adds any value to what is already a very detailed set of requirements that Providers must adhere too.

Working with those non-compliant Providers on how best to present this information would be a more useful exercise as they (and the customer) may perceive that the information is lengthy and difficult to present in an easily discernible manner.

Commented [redacted]: We propose to add 'or a copper landline service' here because we have recommended removing it from the defined term of 'residential landline service' above

Commented [redacted]: We propose the addition of cl8.3 to the Code to clarify that linking to additional information on the Provider's website is sufficient. 111 Code related information is not relevant for all customers, sharing key information in a prominent way with a link to further information is a good way of ensuring that relevant customers can easily find the information while avoid information overload for the rest.

| 9. A vulnerable consumer means a consumer of a residential landline service, who: _____



- 9.1 is at particular risk of requiring the 111 emergency service; and
- 9.2 does not have a means for contacting the 111 emergency service that can be operated for the minimum period, in the event of a power failure.

- 10. For the purposes of clause 9.1, a consumer who is “at particular risk of requiring the 111 emergency service” means a consumer who is more likely than other consumers to require the 111 emergency service because of a specific circumstance applicable to that consumer.

For the purpose of clause 9.2, a ‘means for contacting 111 emergency service’ includes managed medical devices which can be used to contact 111 emergency service either directly or via a third party service.

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

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

- 11. A provider must make available a process for a consumer, or someone on their behalf, to apply to the provider to demonstrate that consumer is (or will become) a vulnerable consumer.
- 12. For the purposes of clause 11, the process made available must comply with the requirements in clauses 13 to 24.

General

- 13. The process made available must:
 - 13.1 be easily accessible for consumers, bearing in mind the needs of vulnerable consumers;
 - 13.2 not be unreasonably difficult for a consumer to fulfil; and
 - 13.3 provide a written application form for a consumer to use that requests the information required by clause 14.

Guidance note: A template written application form is provided ~~on~~ at the Commission’s website Attachment A. The template form requests all the information that is required by clause 14 to be included in a consumer’s application. A provider may choose (but is not obliged) to offer this form ~~(or some adaption that provides the equivalent detail)~~ for the purpose of clause 13.3.

Consumer’s application

- 14. An application by a consumer (or someone on their behalf) to a provider must be treated as complete by the provider if it contains all of the following information:
 - 14.1 the consumer’s details, including:
 - 14.1.1 full name;
 - 14.1.2 customer account holder number;

Commented [redacted]: Proposed paragraph added to the Code to make it clear to readers that if the customer has a medical alarm that can be used to contact 111 emergency services directly, or via a call handling service, they do not meet the definition of a vulnerable consumer under this Code.

- 14.1.3 full address of the premises receiving the ~~retail~~residential landline service; and
- 14.1.4 contact details (eg, telephone/mobile number, email address, postal address);
- 14.2 if someone is applying on behalf of the consumer, the full name and contact details of that person;
- 14.3 which of the following categories most closely relates to the specific circumstance of the consumer that means that consumer is (or will become) at particular risk of requiring the 111 emergency service:
 - 14.3.1 health (for example, a specific circumstance is a known medical condition);
 - 14.3.2 safety (for example, a specific circumstance is family violence); or
 - 14.3.3 disability (for example, a specific circumstance is sensory impairment, intellectual impairment, or physical impairment);
- 14.4 whether the specific circumstance of the consumer is temporary or permanent;
- 14.5 if the specific circumstance of the consumer is temporary, the estimated period of time the specific circumstance will apply to the consumer;
- 14.6 a declaration by the consumer (or the person applying on behalf of the consumer) that the consumer who is the subject of the application:
 - 14.6.1 is (or will become) at particular risk of requiring the 111 emergency service; and
 - 14.6.2 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;
- 14.7 declarations by the consumer (or the person applying on behalf of the consumer) that:
 - 14.7.1 the information provided in the consumer's application is correct to the best of their knowledge;
 - 14.7.2 they understand the information provided in the consumer's application:
 - (a) will be stored with the provider; and
 - (b) may be shared with relevant third parties for the purposes of the provider providing and managing the customer's service;

14.8 either:

14.8.1 the details of a nominated person (including name, contact details and occupation) the provider may contact to verify that the consumer is (or will become) at particular risk of requiring the 111 emergency service; or

14.8.2 sufficient evidence to support that the consumer is (or will become) at particular risk of requiring the 111 emergency service; and

14.9 if a consumer's application has provided the details of a nominated person (in accordance with clause 14.8.1) authorisation for the provider to contact the nominated person for the purposes of verifying that the consumer is (or will become) at particular risk of requiring the 111 emergency service.

15. For the purposes of clause 14.8.1, a nominated person must be someone who, by virtue of their occupation, is competent to give an opinion on whether the consumer is at particular risk of requiring the 111 emergency service, for example:

15.1 a health practitioner (where the application has stated the health or disability category most closely relates to the specific circumstance of the consumer, in accordance with clause 14.3); and

15.2 a police officer, a currently registered social worker, a lawyer (with a current practicing certificate), or a family court judge (where the application has stated the safety category most closely relates to the specific circumstance of the consumer, in accordance with clause 14.3).

16. For the purpose of clause 14.8.2, the following are examples of evidence that may be sufficient to support that the consumer is (or will become) at particular risk of requiring the 111 emergency service:

16.1 a completed 'Notice of Potential Medically Dependent Consumer (MDC) Status' form, which includes a certification from a District Health Board (DHB), private hospital or GP;

16.2 a protection order;

16.3 a letter from a health practitioner; and

16.4 documentation of impairment.

17. A consumer's application can be provided to a provider in any reasonable manner or form (eg, by phone call, by email, in large print).

What happens once a consumer makes an application to a provider

18. Within ten working days of receiving a complete consumer's application, a provider must inform the consumer (or the person acting on the consumer's behalf) that either:
 - 18.1 the consumer's application has been accepted; or
 - 18.2 the consumer's application has been declined.
19. For the purposes of clause 18.2, a provider is only permitted to decline a consumer's application on one or more of the following grounds:
 - 19.1 the consumer who is the subject of the application is not a consumer of a ~~retail~~residential landline service;
 - 19.2 the consumer's application has provided the details of a nominated person (in accordance with clause 14.8.1) and either:
 - 19.2.1 the nominated person does not satisfy the requirement in clause 15;
or
 - 19.2.2 the nominated person considers that the consumer is not (or will not become) at particular risk of requiring the 111 emergency service;
 - 19.3 the consumer's application has provided the details of a nominated person (in accordance with clause 14.8.1) and the provider has not been able to contact the nominated person despite all reasonable efforts to do so;
 - 19.4 subject to clause 20, the consumer's application has provided evidence (in accordance with clause 14.8.2) and that evidence is insufficient to show that the consumer is (or will become) at particular risk of requiring the 111 emergency service; or
 - 19.5 the consumer has a means to contact the 111 emergency service that can be operated for the minimum period in the event of a power failure.
20. A provider is only permitted to decline a consumer's application on the ground specified at clause 19.4 if it has made reasonable efforts to assist the consumer to remedy the insufficiency of the evidence.
21. A provider is entitled to conclude that a consumer has a means for contacting the 111 emergency service at their premises that can be operated for the minimum period in the event of a power failure if any of the following circumstances apply:
 - 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.

22. At the same time that a provider informs a consumer (or a person acting on the consumer's behalf) that the consumer's application has been accepted, the provider must also:
- 22.1 state that the consumer who is the subject of the application is now a vulnerable consumer of the provider;
 - 22.2 specify that the next step is to provide the consumer with an appropriate means to contact the 111 emergency service in the event of a power failure; and
 - 22.3 provide an overview of the dispute resolution process available under the Code, including that a dispute between a consumer and a provider about their rights and obligations under the Code may be referred to an industry dispute resolution scheme by the customer or the provider.
23. At the same time that a provider informs a consumer (or a person acting on the consumer's behalf) that the consumer's application has been declined, the provider must also:
- 23.1 state the ground(s) the provider has relied on for declining the consumer's application, and provide sufficient additional information to enable the consumer to understand why the application has been declined on that ground; and
 - 23.2 provide an overview of the dispute resolution process available under the Code, including that if the consumer disputes the provider's decision to decline the application, the dispute may be referred to an industry dispute resolution scheme.
24. If a consumer's application states that the specific circumstance of the consumer is temporary (in accordance with clause 14.4), a provider may require that consumer's application to be resubmitted after the period of time stated in the consumer's application in accordance with clause 14.5 has lapsed. If the consumer does not re-submit their application, the provider may regard that consumer as no longer being a vulnerable consumer in accordance with clause ~~36.335.4~~.

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

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

G1 Requirement to provide appropriate means

25. A provider must supply each consumer that is a vulnerable consumer of that provider with an appropriate means for contacting the 111 emergency service in the event of a power failure at the vulnerable consumer's premises.

- 26. For the purposes of clause 25, an appropriate means is a means that is appropriate for the specific circumstances of a vulnerable consumer, taking into account in particular the consumer’s physical, mental and technical capabilities.
- 27. A provider must ensure that any means supplied to a vulnerable consumer is:
 - 27.1 supplied as soon as reasonably practicable following acceptance of the consumer’s application;
 - 27.2 supplied at the premises where the ~~retail~~residential landline service is supplied;
 - 27.3 able to be operated at that premises for the minimum period in the event of a power failure;
 - 27.4 supported for the duration of the contract for the ~~retail~~residential landline service, including ensuring the means is regularly and appropriately maintained, except where the vulnerable consumer ceases to be a vulnerable consumer in accordance with clause 3536; and
 - 27.5 provided with clear instructions and guidance on how to operate the means and who to contact if there are any issues.
- 28. For the purposes of clause 27.3, whether a means can be operated at a premises for the minimum period must be assessed as if the means is used and maintained as instructed by the provider.
- 29. For the purposes of clause 27.3, if the means that is supplied to a vulnerable consumer is reliant on the performance of a battery at the premises, the means is able to be operated for the minimum period if the means is:
 - 29.1 able to operate for the minimum period when equipped with a new fully charged battery and used as recommended;
 - 29.2 fitted with a battery health indicator which is appropriate to the needs of the vulnerable consumer, to indicate when the battery needs to be recharged or replaced with a new battery; and
 - 29.3 ~~replaced (or the battery that powers the means is replaced) when it no longer meets the requirements set out in this Section. At least once every 36 months from the date the last means was installed.~~ If the device performance is unknown it should be replaced at least once every 36 months from the date the last means was installed.
- 30. A vulnerable consumer must not bear any costs relating to the supply of an appropriate means for contacting the 111 emergency service, which includes any costs related to the following:
 - 30.1 provision of the means for contacting the 111 emergency service, including:
 - 30.1.1 any costs related to the acquisition or installation of any hardware or device;

Commented [redacted]: We propose this additional wording to clarify that the battery pack should be able to operate for the minimum period (i.e. 8 hours) when used as recommended. The purpose of the battery pack is for vulnerable customers to be able to contact 111 emergency services in a power cut. In order for this purpose to be fulfilled, the battery must support relevant hardware for the 111 calls to be made for the minimum period, i.e. ONT, modem and a single home phone. Providers give information to customers about how the battery packs should be used and highlight the risks if customers plug in multiple additional devices, namely that the battery will drain faster and may not be able to support 111 calling for the minimum period. However, despite this, our members regularly observe cases where customers plug in multiple devices (e.g. fridges, TVs and other household appliances). When a number of these devices are plugged in on an ongoing basis, the battery is likely to drain faster and may not support 111 calling for the continuous 8 hour period. It would be helpful if the Code acknowledged that providers' obligation is to support 111 calling for the minimum period, not provide a battery pack that can support other use cases for the same period.

Commented [redacted]: The suggested change is helpful, but potentially creates some challenges as now we must know how long batteries are currently lasting (rather than the status quo where as long as the battery lasted for 8 hours when we gave it to the customer then we don't have to take a view on battery life - as long as it is replaced in 3 years).

The TCF proposes flexibility e.g., the device must be replaced every 3 years but that an RSP can additionally choose to leave the device in place longer than 3 years if the provider is confident the device is still able to meet the minimum period requirements.

Commented [redacted]: Proposed wording as we recommend keeping the existing option available

30.1.2 where provision of the appropriate means requires an additional connection to a network, any ongoing costs related to maintaining that additional connection;

30.2 maintenance or replacement of the provided means for contacting the 111 emergency service (eg, because the means fails to work, or is being substituted by the provider for another means); and

30.3 recovery or disposal of the provided means for contacting the 111 emergency service.

31. The means provided to the vulnerable consumer is deemed appropriate if such means complies with the requirements set out in this section G, whether the vulnerable consumer accepts it or not.

32. If the vulnerable consumer does not accept the compliant device then the application should be considered withdrawn.

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

G2 Limit on provision of appropriate means

~~31-32.~~ Notwithstanding clause 25, a provider is only required to provide, at any one time, one means for contacting the 111 emergency service per premises.

~~32-33.~~ If there is more than one vulnerable consumer at a premises, the means provided must be appropriate for the needs of all vulnerable consumers at that premises.

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

G3 Requirement to monitor

~~33-34.~~ A provider must, at least once a year, contact each customer that is a vulnerable consumer, or has a vulnerable consumer at their premises, to ensure that the means it has provided to the vulnerable consumer remains appropriate and functional.

~~34-35.~~ A provider may, at least once a year, contact each customer that is a vulnerable consumer, or has a vulnerable consumer at their premises, to enquire whether the consumer's circumstances may have changed in any of the ways described in clause ~~35-36~~ below.

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

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

~~35-36.~~ A provider is permitted to regard a consumer as no longer being a vulnerable consumer in any of the following circumstances:

~~35-136.1~~ where the consumer (or someone on their behalf) requests that they no longer be regarded as a vulnerable consumer;

Commented [REDACTED]: Proposed addition of a clause to clarify in the Code that if a customer rejects a suitable device then their application should be considered withdrawn or declined. It should not be possible for a customer to be registered as VC if they do not have a device as this would break RSP processes which assume all VCs have been provided with a device.

~~35.2~~ 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;

~~35.3~~36.2 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

~~35.4~~36.3 a provider has asked for the consumer's application to be resubmitted in accordance with clause 24 and the application has not been resubmitted.

37. If a vulnerable consumer notifies a provider that they have moved, 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.

~~36.38~~. For the purposes of clause ~~35.36~~, the consumer has a responsibility to inform their provider if they consider they are no longer a vulnerable consumer (or will no longer become one).

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

I. Requirement on providers to not withdraw service

~~37.39~~. A provider must not deny, or withdraw, supply of a ~~retail~~residential landline service to a consumer on the basis that the provider knows or suspects the consumer is (or may become) a vulnerable consumer.

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

J. Requirement on providers to disclose information

~~38.40~~. No later than 30 November of each disclosure year, a provider must disclose to the Commission the following information in respect of the preceding disclosure year:

~~38.140.1~~ a description of the process the provider has implemented for the purposes of satisfying the requirement to provide the information listed in clause 6 in the ways required by clause 7, and supporting evidence;

~~38.240.2~~ a description of the process the provider has implemented for the purposes of satisfying the requirements in clauses 13-24, and supporting evidence;

~~38.340.3~~ the total number of vulnerable consumers the provider has (as at the last day of the disclosure year);

~~38.440.4~~ the number of customers (ie customers of a ~~retail~~residential landline service) the provider has (as at the last day of the disclosure year);

Commented [redacted]: We propose additional wording to note that this obligation should only apply where the vulnerable consumer (or person acting on their behalf) notifies the provider that they have moved. There may be cases where providers do not automatically know if the vulnerable consumer has moved premises, such as where the vulnerable consumer is not a customer or if their home phone runs over FWA connection.

~~38-540.5~~ the number of consumer applications declined by the provider (in accordance with clause 19), broken down by what ground(s) the application was declined on under clause 19 (eg the number of consumer applications declined on the ground described in clause 19.2.1, the number of consumer applications declined on the ground described in clause 19.2.2);

~~38-640.6~~ the number of appropriate means of contacting the 111 emergency service the provider has supplied, broken down by type of means (eg the number of mobile phones supplied, the number of battery-backups); and

~~38-740.7~~ the provisioning timing to provide appropriate means for each new vulnerable consumer (counting from the date that their application was accepted), with brief reasons for any provisioning that took longer than 10 working days, the average number of working days from the point at which a consumer's application is submitted to the point at which the vulnerable consumer is provided with appropriate means to contact the 111 emergency service.

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

K. Requirement on providers to keep records

~~39-41~~. Subject to clause ~~4042~~, a provider must at all times maintain an accurate record of the following information:

~~39-141.1~~ any communication between the provider and the consumer undertaken for the purposes of the requirements in clauses 7.3, 7.4 and 8.1;

~~39-241.2~~ any communication between the provider and the consumer undertaken for the purposes of the requirement in clause ~~3334~~; and

~~39-341.3~~ any consumer application declined by the provider under clause 19, and what ground (or grounds) the application was declined on under clause 19 (eg declined under clause 19.2.1, the nominated person did not satisfy the requirement in clause 15); and

~~39-441.4~~ any consumer that ceases to be a vulnerable consumer for one of the reasons listed in clause ~~3536~~.

~~40-42~~. A provider is permitted to stop maintaining a record of the information required under clause ~~3941~~ in the following circumstances:

~~40.142.1~~ for the purposes of clauses ~~39-141.1~~ and ~~39-241.2~~, if the contract between the customer (ie the customer at the premises where the ~~retail residential~~ landline service is supplied) and the provider is terminated and a period of 5 years or more has passed since the termination of the contract;

~~40.242.2~~ for the purposes of clause ~~39.341.3~~, if a period of 5 years or more has passed since the point in time when the consumer's application was declined; or

~~40.342.3~~ for the purposes of clause ~~39.441.4~~, if a period of 5 years or more has passed since the point in time when the consumer ceased to be a vulnerable consumer for one of the reasons listed in clause ~~3536~~.

L. Dispute resolution

~~41.43~~. A dispute under the Code may be referred to an industry dispute resolution scheme at any time after the dispute arises.

~~42.44~~. For the purposes of clause ~~4143~~, a dispute arises under the Code if:

~~42.144.1~~ one party (either the customer or the provider) has communicated to the other party a disagreement in relation to the rights and obligations of one those parties under the Code; and

~~42.244.2~~ that disagreement is not resolved within five working days.

~~43.45~~. Where a dispute is referred to an industry dispute resolution scheme, sections 241-245 of the Act apply.

~~44.46~~. For the avoidance of doubt:

~~44.146.1~~ only a customer or a provider may refer a dispute under the Code to an industry dispute resolution scheme;

~~44.246.2~~ if a dispute under the Code concerns a consumer who is not the customer (ie they are a person who ordinarily resides at the customer's premises), the customer at the premises where the consumer resides may refer the dispute to an industry dispute resolution scheme on behalf of that consumer;

~~44.346.3~~ each party to a dispute that is referred to an industry dispute resolution scheme must comply with the rules of the scheme; and

~~44.446.4~~ where a dispute is referred to an industry dispute resolution scheme and a determination is made on the dispute under the rules of the scheme, that determination is binding on each party to the dispute (subject to the exceptions listed in section 242(2) and (3) of the Act).

~~45.47~~. Disputes arising under this Code that may be referred to an industry dispute resolution scheme include, but are not limited to, disputes regarding the following matters:

~~45.147.1~~ a consumer's application to a provider to be a vulnerable consumer;

~~45-247.2~~ a provider considers a consumer has not complied with the requirement in clause ~~3638~~; and

~~45-347.3~~ whether the means of contacting the 111 emergency service supplied, or intended to be supplied, by the provider to the vulnerable consumer is an 'appropriate means' for that vulnerable consumer (in accordance with clause 26).

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

M. Amendment or revocation of the Code

~~46-48.~~ The Commission may amend or revoke the Code if the Commission considers that the Code no longer meets all the requirements set out in Part 7 of the Act.

~~47-49.~~ For the purposes of clause ~~4648~~, where the Commission seeks to amend or revoke the Code, it must apply the procedure set out in section 236(1)-(4) of the Act, with any necessary modifications.

~~48-50.~~ The Commission must give public notice of every amendment or revocation of the Code.

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

ATTACHMENT A – APPLICATION FORM TO BE CONSIDERED A VULNERABLE CONSUMER

111 Contact Code application form

[Provider
logo
(optional)]

Complete this application form if you want your telecommunications provider to consider you (or someone you are applying on behalf of) to be covered by the 111 Contact Code.

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

To be covered by the 111 Contact Code, a person must:

- be at particular risk of requiring the 111 emergency service (either now or sometime in the near future); and
- in the event of a power failure, not have a means to contact the 111 emergency service at their premises that can work for a continuous 8-hour period.

This form can only be completed by one of the following people:

- a customer (the account holder);
- a person who is listed as an authority on the customer's account; or
- 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.

Instructions for completing form

1. Fill in Parts A, B and C of the form.
2. Complete the declaration in Part D of the form.
3. Return the completed form to *[insert provider's contact details]*.

Part A: Personal details

1. Are you the customer (account holder)?

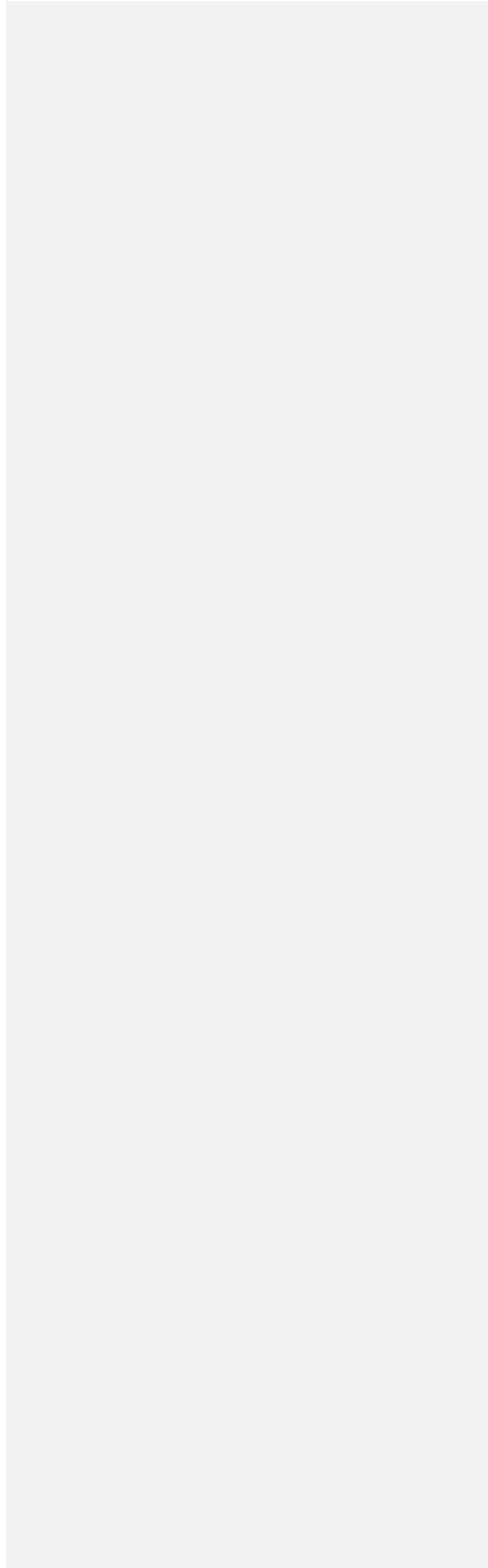
Yes (fill out 3a)

No (Go to Q2)

account before you make this application

3a. Details of customer

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



What is the customer/household account number (or equivalent) with the provider?	
What is the address receiving phone service?	
Flat/Street name	
Suburb	
City	
Postcode	
Telephone:	Mobile:
Email address:	
Postal address:	
City/Town:	Postcode:

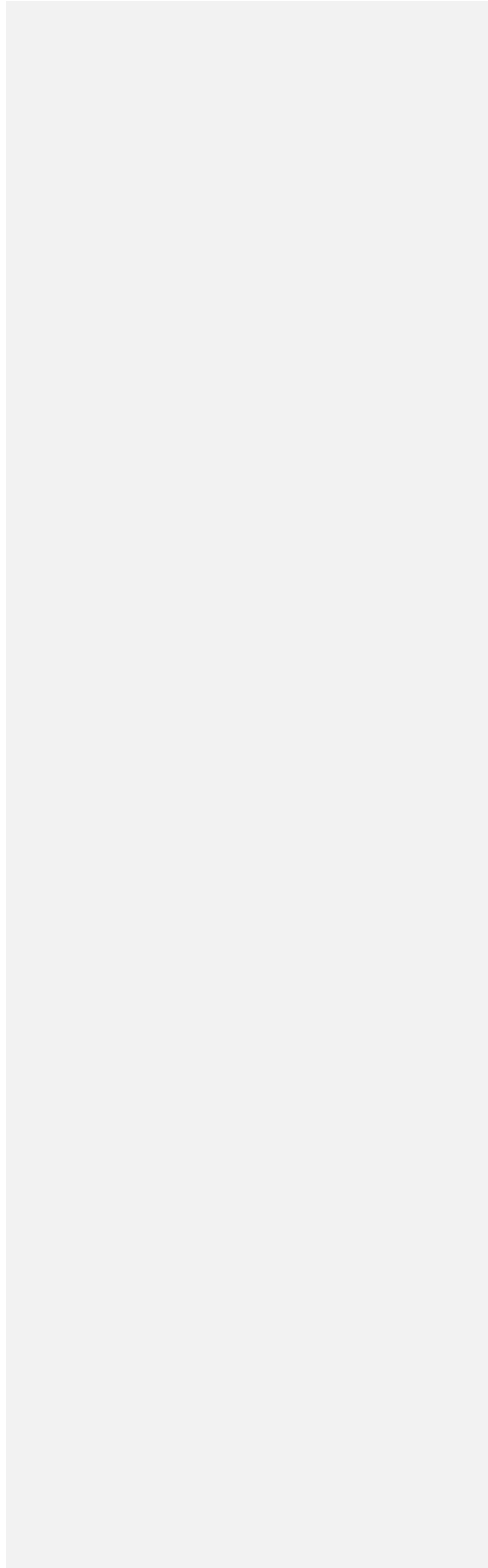
3b. Details of person listed as an authority on the customer's account

***Please only fill out this section if you are not the customer**

First name(s): Preferred first name (if different):

Surname or family name:

Title: Mr. Ms. Mrs. Miss. Dr. Other, please specify



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

4. What is the preferred method of contact (please tick)?

Home phone Mobile Mail Email

5. _____ Are you making this I am applying to be covered by the

111 Contact Code

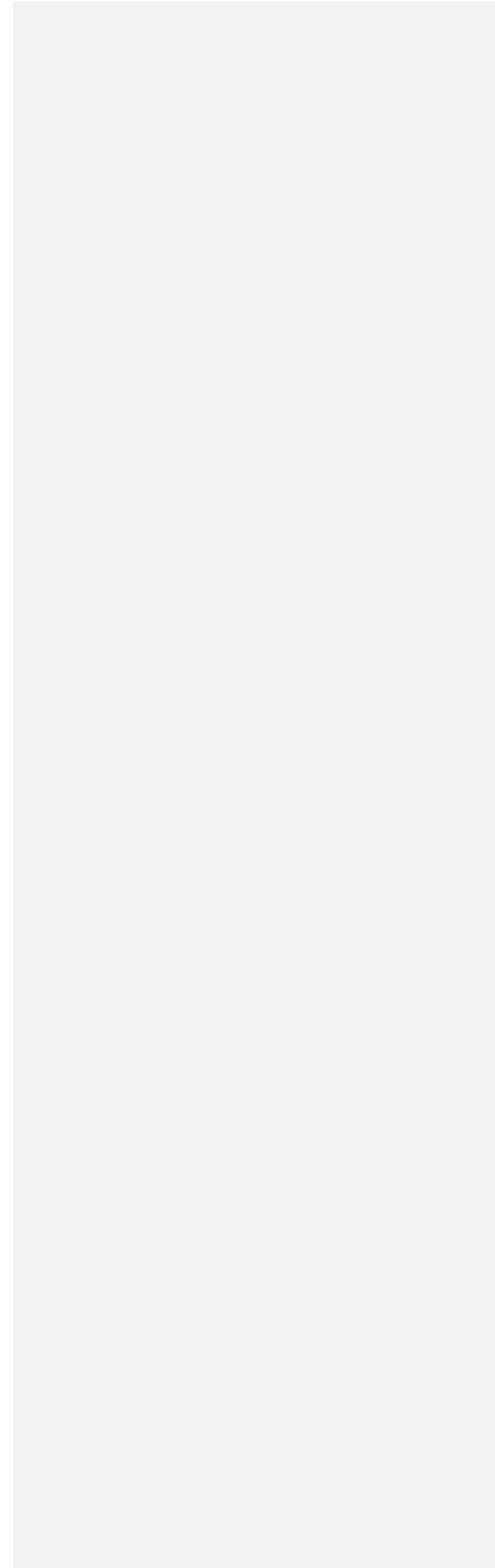
application for yourself, or
on behalf of someone else?

(Go to Part B)

I am applying on behalf of someone else **(fill out 5a)**

5a. Details of person who wants to be covered by the 111 Contact Code

***Please only fill out this section if you are applying on behalf of someone else**

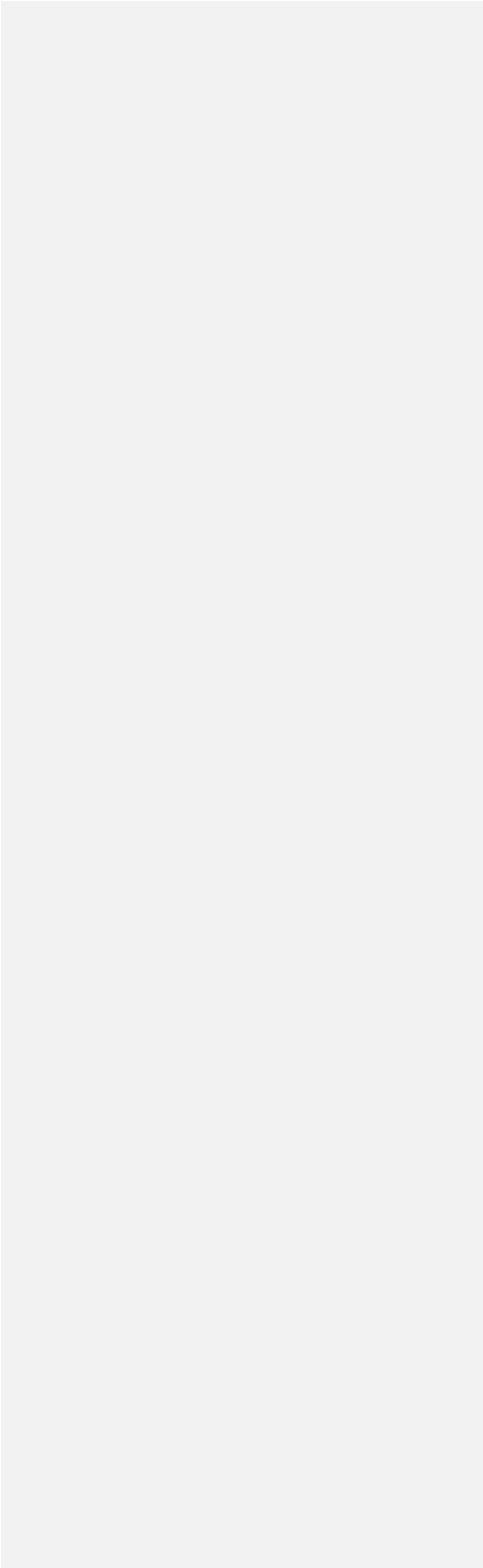


Details of person who wants to be covered by the 111 Contact Code

First name(s):	Preferred first name (if different):
----------------	--------------------------------------

Surname or family name:

Salutation: Mr Ms Mrs Miss Dr Other, please specify



PART B: Information on the person at particular risk

How to complete Part B

1. Read Guidance Note 1 (provided in Part E).
2. Complete Q6 and Q7

6. Please select which category most closely relates to the specific circumstance of the person who wants to be covered by the 111 Contact Code?

Health

Safety

Disability

7. Is the specific circumstance of the person permanent or temporary?

Permanent

Temporary

**If you selected 'Temporary', what is the estimated period of time the category of particular risk will apply to the person?*

Part C: Supporting information

How to complete Part C:

1. Read Guidance Note 2 (provided in Part E).
2. Complete Q8.

8. What information is being provided in support of the application?

Sufficient evidence to support that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service (fill in 8a)

OR

Details of a nominated person we can contact to verify that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service (fill in 8b and 8c)

8a. Sufficient evidence to support that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service

* Please attach this supporting evidence to your application.

Please describe the supporting evidence you are providing:

8b. Details of nominated person

Details of a nominated person we can contact to verify that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service

First name(s):	Surname or family name:
Occupation:	
Organisation (if applicable):	
Telephone:	Mobile:
Email address:	
Postal address:	
City/Town:	Postcode:

8c. Declaration regarding nominated person

***Please note that if you are making this application on behalf of someone else, before completing this declaration, you must have received permission from that person to authorise us to contact the nominated person**

• I authorise [insert provider details] to contact _____ for <i>(Full name of nominated person)</i>	
the purposes of verifying that I (or the person I am applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service.	
Signature:	Date:

PART D: General declaration

How to complete Part D:

3. Read Guidance Note 3 (provided in Part E).
4. Complete the declaration.

- I acknowledge and declare that, to the best of my knowledge, the information given in this form is correct;
- I acknowledge and declare that _____;
(please insert your name here, or the person you are applying on behalf of)
 - is (or will become) at particular risk of requiring the 111 emergency service; and
 - does not have a means to contact the 111 emergency service at the premises that can be operated for a continuous 8-hour period in the event of a power failure;
- I understand that the information I have provided in this form will be stored with *[insert provider details]*;
- I understand that the information I have provided in this form may be shared with relevant third parties for the purposes of providing and managing my service.

Signature:

Date:

PART E: Guidance

GUIDANCE NOTE 1

For a person to be covered by the 111 Contact Code they must be 'at particular risk of requiring the 111 emergency service'. Part B asks for information that will allow us to know that the person who is applying to be covered by the 111 Contact Code is 'at particular risk of requiring the 111 emergency service'. The person could be 'at particular risk' now, or sometime in the near future, and they may be at risk on a temporary or permanent basis.

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

A person who is "at particular risk of requiring the 111 emergency service" means a person who is more likely than other people to require the 111 emergency service because of a specific circumstance applicable to that consumer.

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

Scenario one

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

Scenario two

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

Scenario three

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

Scenario four

Tane is booked in to have both knees replaced. He lives alone and is worried about complications or a fall and needing to access the 111 emergency service during recovery over the next three months.

Q-What do the 'Health', 'Safety' and 'Disability' categories in Question 6 mean?

This question asks you to select which of three categories (health, safety or disability) most closely relates to the specific circumstance you (or the person you are applying on behalf of) has that means you (or the person you are applying on behalf of) is at particular risk of requiring the 111 emergency service.

If you tick the 'health' category, this means the specific circumstance that makes you (or the person you are applying on behalf of) at particular risk of requiring the 111 emergency service is related to health. For example, it is a known medical condition.

An example of a specific circumstance that may mean you tick the 'safety' category is family violence. An example of a specific circumstance that may mean you tick the 'disability' category is sensory impairment, intellectual impairment or physical impairment.

Q-Do I have to be 'at particular risk' now, or could it be sometime in the future?

A person may not be 'at particular risk' now, but they know they will become 'at particular risk' sometime in the near future. For example, a person who has a planned surgical operation.

Q How can a person be ‘at particular risk’ on a temporary or permanent basis?

A person may be ‘at particular risk’ because they have suffered a physical injury, but the person expects to recover from this injury after a certain period of time. In these circumstances, the person is only ‘at particular risk’ on a temporary basis.

An example of a person who may be ‘at particular risk’ on a permanent basis is a person who has congenital blindness and will not recover.

Question 7 asks you to tell us whether the specific circumstance that makes you (or the person you are applying on behalf of) ‘at particular risk’ is on a temporary or permanent basis.

GUIDANCE NOTE 2

Part C asks for information to support the answers given to Q6 and Q7 in Part B.

One of the following must be provided:

- (a) sufficient evidence to support that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service; or
- (b) the details of a nominated person we can contact to verify that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service.

Q Who can be a ‘nominated person’?

A nominated person must be someone who, by virtue of their occupation, is competent to give an opinion on whether you (or the person you are applying on behalf of) is at particular risk of requiring the 111 emergency service.

For example, if the ‘health’ or ‘disability’ category has been ticked in response to Q6, then a health practitioner (such as a GP) could be a nominated person. If the ‘safety’ category has been ticked, then a police officer, a currently registered social worker, a lawyer (with a current practicing certificate), or a family court judge could be a nominated person.

We recommend that before you make your application to us, you (or the person you are applying on behalf of) first contact the nominated person to discuss the application.

Q If I don’t provide the details of a nominated person, what sort of evidence must be provided?

It must be sufficient information to show that you (or the person you are applying on behalf of) is (or will become) at particular risk of requiring the 111 emergency service.

Examples of evidence that may be sufficient include:

- a completed Electricity Authority ‘Notice of Potential Medically Dependent Consumer (MDC) Status’ form, which includes a certification from a DHB, private hospital or GP (accessible from their website here: <https://www.ea.govt.nz/operations/retail/retailers/retailer-obligations/medically-dependant-and-vulnerable-customers/>);
- a protection order;
- a letter from a health practitioner (eg, a GP); or
- documentation of impairment (eg, an ID card).

GUIDANCE NOTE 3

Part D asks you to make some declarations regarding the content you have provided in the application, and to acknowledge that you understand what we (the provider) may do with the information you have provided in the application.

One of the declarations asks you to declare that the person who wants to be covered by the 111 Contact Code:

- is (or will become) at particular risk of requiring the 111 emergency service (information on what this means is provided in Guidance Note 1); and
- does not have a means to contact the 111 emergency service that can be operated at the premises for a continuous 8 hour period in the event of a power failure”.

Q-What is the 111 emergency service?

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

Q-What does ‘a means to contact the 111 emergency service that can be operated at the premises for a continuous 8-hour period in the event of power failure’ mean?

It means that the person has a way of contacting the 111 emergency service at the premises where they live.

The ‘means’ a person uses to contact the 111 emergency service must be able to work for a continuous (ie non-stop) 8 hour period if used as instructed.

A person will have a way of contacting the 111 emergency service if:

- the premises where they live is receiving a copper landline service (because this service will continue to work in a power cut);
- the person has unrestricted access to a mobile phone and the premises where they live has adequate mobile phone network coverage; or
- the person has an uninterruptable power supply to maintain a means for contacting the 111 emergency service in the event of a power failure (eg a battery back-up).

GENERAL GUIDANCE

What is the 111 Contact Code?

The purpose of the 111 Contact Code is to ensure that consumers who are at particular risk of requiring the 111 emergency service, and do not have a means for contacting the 111 emergency service, have reasonable access (or persons on their behalf do) to an appropriate means (eg, a mobile phone) to contact the 111 emergency service in the event of a power failure.

If you have a dispute about your (or your telecommunication company's) rights and obligations under the 111 Contact Code, you have a right for that dispute to be referred to an industry dispute resolution scheme to resolve. A consumer's right to take a dispute under the 111 Contact Code to an industry dispute resolution scheme is protected under the Telecommunications Act 2001 (sections 241-245). Currently, the relevant industry dispute resolution scheme is the Telecommunications Dispute Resolution Scheme.

The 111 Contact Code is administered by the Commerce Commission. More information on the 111 Contact Code, and a copy of the 111 Contact Code, is available on the Commerce Commission's website here: <https://comecom.govt.nz/regulated-industries/telecommunications/projects/commission-111-contact-code>.

What is the Telecommunications Dispute Resolution Scheme?

The Telecommunications Dispute Resolution Scheme is a free, independent service to help consumers with complaints about their telecommunications provider. A dispute between a consumer and a telecommunications company about their rights and obligations under the 111 Contact Code may be referred to this Scheme.

For more information on the Telecommunications Dispute Resolution Scheme you can contact us at *[insert provider's contact details]* and we will refer to where to find more information, or you can read more about the Scheme and how to contact them on their website here: <https://www.tdr.org.nz/about-tdr/all-about-tdr>.

Who should I contact if I have any questions about this form?

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

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