

## Consultation response form

Please complete this form in full and return to [telephonyUSO@ofcom.org.uk](mailto:telephonyUSO@ofcom.org.uk).

<b>Consultation title</b>	Review of the telephony universal service obligation
<b>Full name</b>	Mrs Lois Dale, Rurality and Equalities Specialist
<b>Contact phone number</b>	01743 258528
<b>Representing (delete as appropriate)</b>	Organisation
<b>Organisation name</b>	Shropshire Council
<b>Email address</b>	Lois.dale@shropshire.gov.uk

## Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

<b>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.</b>	We do not require confidentiality: this response is on behalf of Shropshire Council.
<b>Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.</b>	This response is not confidential and will be placed in the public domain, on our website.
<b>For confidential responses, can Ofcom publish a reference to the contents of your response?</b>	Yes

## Your response

<b>Question</b>	<b>Your response</b>
<p><b>Question 1: Do you agree with our proposed changes to the requirements on BT and KCOM in respect of the pricing and services provided by their PCBs? In particular do you agree with:</b></p> <p><b>(i) allowing free calls from PCBs;</b></p> <p><b>(ii) removing the requirement for PCBs to offer incoming calls where outgoing calls are free;</b></p>	<p>Shropshire Council agrees with allowing free calls from PCBs, as this will help to ensure that vulnerable individuals such as those seeking help from advice lines or support networks can use the PCBs for such purposes.</p> <p>This is of particular pertinence in small and isolated rural settlements, such as in our large and sparsely populated rural county, where</p>

(iii) removing the requirement for PCBs to offer outgoing calls to unbundled tariff numbers (including premium rate and directory enquiries) and international numbers; and

(iv) removing the requirement for 70% of PCBs to accept cash payment and replacing it with a requirement on BT and KCOM to assess whether cash payment facilities meet an ongoing need.

Please provide reasons for your view.

individuals may not wish to self-identify for any number of reasons.

The proposed change to remove the requirement for 70% of PCBs to accept cash payment, and to replace it with a requirement on BT to assess whether cash payment facilities meet an ongoing need, makes some sense as long as BT and KCOM are required to seek guidance from local authorities as to the level of ongoing need in a locality.

Local authorities are best placed to then liaise with town and parish councils and community and voluntary sector, building on the place shaping approaches that we already have in place, and our evidence bases about local needs, particularly in terms of rurality, and share a balanced judgment in this regard.

We would recommend that the requirement on BT and KCOM takes the form of a time limited deadline for responses, building on the approaches already in place in the existing guidance around proposed removals, whereby, if BT does not hear back from a local authority, silence is taken as assent.

**Question 2: Do you agree with our proposed new process for BT and KCOM to consult on proposed PCB removals? In particular do you agree with our proposed removal criteria for assessing whether there is an ongoing need for a PCB?**

We need to start by articulating concern about the following statements made by Ofcom in the consultation paper:

*“3.65 In light of the concerns set out above, and in line with our wider policy objectives for this review, we are seeking instead to design a removals process that is straightforward, simple and transparent. We want to ensure it allows BT and KCOM to remove PCBs which are no longer needed whilst at the same time protecting those that are needed, and that reduces the burden on local authorities.”*

We did not invite a reduction of burden: it is within our remit as local authorities to decide where and how to reduce anything that may be perceived by others as a burden.

*“3.66 To meet this aim we are proposing a number of changes to the current removals process. As part of these proposals we intend to maintain the requirement that the specific removal process is only required where the PCB*

*is the last at a site, given that if there is another PCB in the area this should be sufficient to meet the needs of users in an area. We consider that the current definition of a 'site' remains appropriate given that 400 metres represents approximately five minutes' walk at a typical walking pace. "*

This distance of 400 metres has caused us issues before as it does not account for the local geography eg we lost a payphone at a railway station (Ludlow), which had ongoing usage. BT removed it without consultation despite our efforts to intercede on behalf of the community, because there was another at around a 400 metres distance. However, this necessitated access via a considerably steep hill and across a busy road. This was by no means a five minute walk and no easy feat in the dark either.

It is our view that the specific removals process should apply even when there is another within the locality, so that local road and terrain issues can be adequately factored in.

*"3.67 For clarity, in the universal service conditions we propose to define any PCB that is the last at a site as a 'Protected PCB' and we use this definition when setting out our proposals below. "*

For clarity, we request a widening of the scope of what might define a protected PCB, to include consideration of local geography and access to facilities and services including next nearest payphone, and an opportunity for local authorities to comment on the proposed Protected PCB listing, so that we can collectively then minimise any negative impacts on social inclusion.

*"3.68 PCBs that are not protected PCBs can be removed by BT or KCOM without needing to go through the removals process outlined below. It is also worth noting that removing a nonprotected PCB could mean that another PCB nearby would become the last-at-a-site and therefore protected."*

This is an emphatic no to such removals, for the following reasons.

### **Equality and social inclusion concerns**

At present, the proposals are incompatible with the statement made by Ofcom at para 2.26 in the consultation paper, that:

*"We can only set or modify universal service conditions and general conditions where we are satisfied that the conditions are: a) not unduly discriminatory against particular persons or against a particular description of persons; b) proportionate to what they are intended to achieve; and c) transparent in relation to what they are intended to achieve."*

As it stands, the proposals would discriminate against older people and young people in rural areas, ie the Protected Characteristic grouping of Age; people in the Protected Characteristic grouping of Disability, including mental health; and people in the groupings of Sex and of Sexual Orientation, including those with caring responsibilities. In our own equality impact assessments, we factor in a tenth category of social inclusion, in which we consider vulnerable people, such as: young people leaving care; veterans and serving members of the armed forces; low income households; and households in rural areas. These groupings would all be discriminated against with a loss of operational BT payphones in their localities.

This means that we would dispute the conclusion drawn in the equality impact assessment, and that we would assert that the proposals would not in any way assist Ofcom in meeting one of its stated objectives at para 2.30, ie: *"PCBs continue to be provided to meet the reasonable needs of end-users, in particular acting as a safety net for those in remote or rural areas or vulnerable customers who might otherwise be at risk of social and/or economic exclusion"*.

This is not to say that improvements are not warranted. We agree with the statement at para 3.70 that:

*"...the most appropriate way to retain the PCBs that are needed is to define a set of criteria*

*against which the reasonable need for that PCB can be assessed. This will enable a more consistent approach to the assessment on the basis of user needs. It also means there will be greater certainty and clarity of the process as it will in effect mean that where it is apparent that a protected PCB meets one or more of the relevant criteria, BT and KCOM cannot propose it for removal. “*

And we do agree that reducing the consultation period for PCBs at risk of removal, from 90 days down to 60 days, makes sense.

#### **Changes needed to proposed set of criteria**

Ofcom say at paras 3.71 and 3.72 that:

*“In identifying the relevant criteria (which we refer to as the ‘removal criteria’), we have taken account of likely user needs in relation to PCBs, and are proposing to establish three specific criteria relating to: • mobile coverage at the site of the PCB; • whether the site of the PCB is an accident or suicide hotspot; and • the usage of the PCB. We are also proposing to include a general criterion relating to any other exceptional circumstances which would justify the removal of the PCB. “*

We do not agree with the proposal of just three specific criteria and the additional general criterion, ie exceptional circumstances, unless these are amended in scope and in the latter case more tightly framed, and unless a fourth category of ongoing social need is added.

#### **Mobile coverage at the site of a PCB**

Our local communities are the ones who really know what the connectivity issues are in their area, so when we see a statement at 3.78 that:“... Where it is not possible to undertake such checks within the 50m radius, because for example of geography constraints, we would expect BT and KCOM to take all reasonable steps to ensure they have taken a robust measurement”, we would want to please see those reasonable steps including an approach to the local authority for an up to date picture of mobile phone coverage within the radius of the relevant PCB. We have also previously

requested, in related Ofcom and DCMS consultations, for Ofcom to conduct independent drive-bys, and request this again through this consultation. It would be extremely valuable given that it would provide an objective counterpoint to the views and assertions of commercial operators.

#### Accident or suicide hotspot

We agree with this criterion, as long as BT and KCOM are required to seek guidance from local authorities as to the current picture in a locality.

Reinforcing our point at question one, local authorities are best placed to then liaise with town and parish councils and community and voluntary sector, building on the place shaping approaches that we already have in place, and our evidence bases about local needs, particularly in terms of rurality, and share a balanced judgment in this regard. We would recommend that the requirement on BT and KCOM takes the form of a time limited deadline for responses, whereby, if BT does not hear back from a local authority, silence is taken as assent that there is nothing further to add.

#### Usage

If the usage figure were to be set at 52 calls, this would pretty much rule out nearly all of our remaining PCBs, as there are a significant number where there are only 1 or 2 calls a year or none at all. What this does not rule out is the ongoing social need for a payphone regardless of the structure in which it is housed.

Additionally, this figure masks the ones that turn out literally upon inspection to not be working, rendering it impossible to estimate actual usage; and the ones that are needed as much by visitors and tourists as by any local residents.

This social need may not be about road traffic accidents and those involving horses, farm animals and farm machinery: it is more likely in our case to be that the payphone is on a narrow rural road or the edge of a settlement

or a housing estate, or by a canal or river, or in an area of our market towns from which residents find it difficult to physically reach facilities and services and have need of recourse to a payphone.

The county is quite literally exposed to extreme weather conditions, with roads that are liable to flooding, and a lack of viable alternatives leading to congestion and lengthy diversions, all of which can cause real issues for people if their mobile phone runs out of charge or if they are out on a walk such as Duke of Edinburgh Award and become lost in unfamiliar terrain. A working BT payphone, whether it is a red K6 or a modern style KX100, is an extremely reassuring sight.

We would request that any usage figure is accordingly a criterion that cannot in itself justify efforts by BT or KCOM to remove a payphone, and that should only be considered alongside usage figures from the next nearest payphones to provide a more holistic view of ongoing local need, and the other criteria.

New category: ongoing social need

The proposed categories do not adequately recognise the extent and variance of local social needs, whether in rural areas and in areas of high social housing, or in terms of access to facilities and services such as healthcare, schools, and places of worship, including location by such services, outside train stations, and/or on bus routes that themselves have extremely infrequent services.

Sometimes we can direct people to local pubs or shops instead, but these have themselves become scarcer or have reduced opening hours. We cannot over emphasise the importance of telephone functionality even where there is low or no usage, and the continued difficulties of patchy or non existent mobile phone coverage.

Final category: exceptional circumstances

For this category to work, we believe that more examples would need to be given eg not only

coastal locations but also locations in Areas of Outstanding Natural Beauty where there are visitors unfamiliar with the terrain or lacking mobile phones and/or mobile phone coverage, as is the case in Shropshire, and by waterways. It should not be enough for a local authority to cite exceptional circumstances to BT or KCOM, without being more specific.

**Overall, we therefore request that changes be made to the scope of the criteria, and that an additional category of social need be added.**

**In summary, our own default position is to object to removal of the telephony in order to seek to ensure continuation of the service as fulfilling a social need, including continuing concerns over mobile phone signal coverage and growing concerns about use needed by low income households and older people. This is in no small part due to our situation as a large, rural, and sparsely populated county, with an ageing population, scattered locations of services and amenities, and mobile phone coverage issues for residents and visitors alike.**

#### **Retention of the local veto**

The challenge as we see it on the proposal to remove the local veto is that incorrect conclusions have been drawn about the application of the local veto by local authorities: the assumption appears to be that inconsistent application is the issue here, when in fact it should be recognised that every local authority is different, because it has different communities of place and interest, and because it will have different political and policy drivers. Accordingly, we should not be surprised if the local veto is approached differently either.

Conclusions should not be drawn in haste that could disadvantage the communities that local authorities seek to help, and that could be seen simply as aiding BT and KCOM as commercial organisations.

We noted the Ofcom statement at para 3.59: *“There is also evidence that the local veto is not exercised evenly across the UK with some local authorities not vetoing any proposals for*

*removal, while others veto a large number. For example, as part of the consultations BT undertook on proposed removals in 2019/20, one local authority objected to all 40 proposed PCB removals, whereas another accepted all 35 proposed removals, and a total of 60 (out of 309) local authorities vetoed all proposed removals in their area. We are concerned that this inconsistent application of the process goes against our duty to have regard to the needs of the different interests of people in different parts of the UK, including of people living in rural and in urban areas. "*

In Shropshire Council's case, we act on behalf of local town and parish councils, members of the public, voluntary and community sector, and local elected Councillors, and Local Policing Teams, through a clear and well established consultation process in which town and parish councils are consulted with directly, at both stages of the consultation process, as the representatives of their local communities. At the conclusion of the process we give a rationale each time for any objection to removal, consent to removal, or consent to removal of operational telephony with request for retention and adoption of the structure by the town or parish council or a specified charity such as the Community Heartbeat Trust.

**We are attaching copies of the most recent large scale consultation exercise, from August 2021, to demonstrate our comprehensive approach.**

The data given by BT does not appear to include statistics on any appeals that BT have decided to pursue about payphones where a local veto has been exercised: this course of action has remained open to BT as the commercial operators, and it surely remains their responsibility to make the case and challenge a decision when an authority has exercised a veto, rather than removing the veto and placing an onus and a greater administrative burden on local authorities to contest each case, without even any clarity that there would be a realistic prospect of success. We recommend that Ofcom seek feedback from BT and KCOM in this regard.

	<p>Far from reducing the burden on local authorities, by removing the power of veto and introducing a new appeals process, as has been posited in the consultation paper, we would be cast in adversarial roles, instead of building on a proportionate approach that utilises and builds on cordial relations in our case between BT and ourselves.</p> <p><b>We therefore request that the power of veto is retained</b>, accompanied by clear guidance that is communicated through Chief Executives rather than through Chief Planning Officers, as this will at a stroke remove one of the ways in which messages can be lost and have been lost. Building on our earlier point, local authorities are configured differently in accordance with local need: but they do all have a Chief Executive or lead officer of the Council.</p>
<p><b>Question 3: Do you agree with our proposal to impose a new resilience obligation for PCBs? And do you agree with our proposed guidance that those PCBs which are more likely to be needed in the event of a power cut should have a solution which enables emergency calls to continue to be made for a minimum of three hours in the event of a power outage?</b></p> <p><b>Please provide reasons for your view.</b></p>	<p>This resilience obligation makes some sense as long as the PCBs for which this would apply are identified in liaison with local authorities, as we have the local knowledge as to where the PCBs with a resilience obligation should be located.</p> <p>This is partly in light of our population spread and ageing demographic profile across our large and sparsely populated rural county, in which we continue to have mobile not spots and inadequate digital connectivity, and partly in light of the number of tourists and visitors to our county, and the volume of freight and trade traffic through the county. These present significant additional potential users of BT payphones, and a further illustration that every local authority is different due to the different communities that it seeks to serve, and that different policy decisions will be taken accordingly. This emerged as a real issue for local communities in the recent storms, where parts of north Shropshire were for example without power.</p> <p>Shropshire is the second largest inland rural county in England, after Wiltshire, and one of the most sparsely populated. Shropshire is approximately ten times the size of all the Inner London Boroughs put together (31,929 hectares), with 1.02 persons per hectare and a</p>

population of 325,415 for a terrain covering 319,736 hectares (Source: ONS Census 2011, mid year estimates for 2020).

Around 57.2% of Shropshire's population lives in rural areas. There are 17 market towns and key centres of varying size, including Ludlow in the south and Oswestry in the north, and Shrewsbury, the central county town. An additional dynamic is that, unlike for example Cumbria, the population is dispersed across the entire county, rather than there being any areas where no one lives at all.

Being an inland county brings its own challenges. There is a dependency on a limited number of key arterial transport routes, for trade and supply including freight through the county to Wales and Ireland, or up to the North West, as well as for everyday transport for local communities and businesses and the significant numbers of tourists and visitors to our county, who are de facto unfamiliar with our skein of narrow local roads and the distances between settlements. The physical terrain poses practical challenges for digital and physical infrastructure.

The county is also quite literally exposed to extreme weather conditions, with roads that are liable to flooding, and a lack of viable alternatives leading to congestion and lengthy diversions, all of which can cause real issues for people if their mobile phone runs out of charge or if they are out on a walk such as Duke of Edinburgh Award and become lost in unfamiliar terrain.

A working BT payphone, whether it is a red K6 or a modern style KX100, is an extremely reassuring sight. This is absolutely not about sentiment towards structure, it is about operational functionality.

A final point here is there are a continuing number of payphones of which we are aware through previous BT consultations, where operability and usage are difficult to ascertain as some have been in need of repair for what we would describe as an unconscionably long time. These are all reported to BT as part of

	our response on proposed removals. I attach the most recent response to DCMS accordingly.
<b>Question 4: Do you agree with the proposed amendments to the conditions on BT and KCOM in respect of considering requests for new PCBs?</b>	Yes
<b>Question 5: Do you agree that it is no longer appropriate for the universal service obligations to require provision of fax services in light of the impact of IP migration on the functionality of these services?</b>	Yes
<b>Question 6: Do you agree with our proposal to revoke the itemised billing requirement from the universal service conditions?</b>	No comment
<b>Question 7: Do you agree with our proposed reporting requirements on BT and KCOM?</b>	No: please see comments under earlier questions. We would request input from local authorities via webinar or similar, to assist with reframing of the reporting requirements or would be happy to help directly in this regard.
<b>Question 8: Do you agree with our proposed changes to tidy-up the wording and definitions used in the universal service conditions?</b>	No: please see comments under earlier questions. We would request input from local authorities via webinar or similar, to assist with reframing of the wording and definitions or would be happy to help directly in this regard.

Signed:

Date: Tuesday 11<sup>th</sup> January 2021



Mrs Lois Dale, Rurality and Equalities Specialist, Shropshire Council