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## Emergency video relay

Decision to approve Sign Language Interactions'  
proposed service

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Welsh overview and background – [Gwasanaethau cyfnewid fideo brys](#)

**STATEMENT:**

Publication Date: 27 January 2022

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# 1. Overview

Video relay services are a way of enabling deaf people who use British Sign Language (BSL) to communicate effectively using telecoms services with people who do not use BSL. The deaf BSL user makes a video call using a connected device to call a hearing person via an interpreter in a call centre. The interpreter translates what the deaf user is signing into spoken English for the hearing person, and signs what the hearing person is saying to the deaf user.

In June 2021, we published our decision to require communications providers<sup>1</sup> to provide, or contract to provide, a free 24/7 emergency video relay service approved by Ofcom.<sup>2</sup> We also set out the criteria that would need to be met in order for an emergency video relay service to be approved.

In November 2021, we consulted on our assessment of Sign Language Interactions' proposed service against our approval criteria. We invited responses by 17 December 2021.

## **What we have decided - in brief**

Taking into account Sign Language Interactions' formal application (including further submissions) and all the responses received to the consultation, we have decided to approve Sign Language Interactions' proposed service for the purposes of General Condition C5.

The approval will take effect on 27 January 2022 and will remain in place unless we withdraw it. While we consider that Sign Language Interactions' proposed service meets the approval criteria, we will monitor the performance of the service once it is in operation. We may, at any time, by notification in writing to the service provider, withdraw our approval where we consider that the service provider no longer meets the approval criteria.

The obligation imposed on communications providers to provide emergency video relay will come into effect on 17 June 2022.<sup>3</sup> Communications providers are able to use Sign Language Interactions' service in order to meet this obligation.

Communications providers will be required to promote the emergency video relay service, in the same way they are currently required to promote text relay and emergency SMS. We will also work with organisations such as deaf charities to help publicise emergency video relay via their publications and social media channels.

In addition to our decision to approve Sign Language Interactions' proposed service, we also address in this document comments made by consultation respondents on other matters, including implementation.

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<sup>1</sup> For the purpose of the relevant General Condition, we mean providers of fixed and mobile telephony services i.e. number-based interpersonal communications services (where it is technically feasible for them to provide video relay), and providers of internet access services.

<sup>2</sup> This obligation will be implemented through Ofcom's General Conditions of Entitlement, in particular General Condition C5.

<sup>3</sup> This is the date on which a number of other consumer protection obligations come into effect.

## 2. Introduction and background

### Background

- 2.1 Ofcom has a duty under the Communications Act 2003 to further the interests of citizens and consumers in relation to communications matters. This includes having regard to the needs of disabled citizens. Ofcom also needs to adhere to the principle contained in the regulatory framework that people with disabilities should have access to emergency communications that is equivalent to that experienced by other end-users.
- 2.2 In June 2021, Ofcom published a statement (“the June Statement”)<sup>4</sup> setting out our decision to require providers of fixed and mobile telephony services<sup>5</sup> and providers of internet access services, to provide, or contract to provide, a free 24/7 video relay service for deaf BSL users to enable communication with the emergency services. This emergency video relay service would need to be approved by Ofcom. This requirement will be implemented through General Conditions (“GCs”) which were made on 22 June 2021 (inserted in General Condition C5 (GC C5)) and which come into effect on 17 June 2022.
- 2.3 The emergency video relay service will allow deaf BSL users to communicate clearly and effectively with non-BSL users, and will allow instructions from the emergency services to be more easily understood by BSL users. It will involve a deaf BSL user signing via a video link to an interpreter in a location such as a call centre using a connected device such as a smartphone, tablet or PC. The interpreter translates what is signed to the hearing person (in this case the emergency services) and signs the responses from the emergency services back to the deaf BSL user.
- 2.4 The June Statement set out the GCs imposed in relation to emergency video relay<sup>6</sup> and also set out the approval criteria that would have to be met in order for a service to be approved by Ofcom as an emergency video relay service (“the Approval Criteria”).<sup>7</sup> The Approval Criteria are set out in Annex 1 and an extract of the relevant GCs in Annex 2.
- 2.5 The June Statement also set out the expected timeline for implementing emergency video relay, which we have reproduced below.

**Table 1: Timetable for implementation**

Expected timing	Action
22 June 2021	Publication of final approval criteria
1 September 2021	Deadline for expressions of interest
1 October 2021	Deadline for formal applications

<sup>4</sup> [Statement: Emergency video relay, Ofcom, June 2021](#).

<sup>5</sup> Number-based interpersonal communications services where this is technically feasible.

<sup>6</sup> Annex 2, Statement: Emergency video relay, Ofcom, June 2021.

<sup>7</sup> Annex 1, Statement: Emergency video relay, Ofcom, June 2021.

<b>November 2021</b>	Consultation on any proposal to approve services
<b>January 2022</b>	Publication of a decision by Ofcom to approve one or more services
<b>January-June 2022</b>	Regulated providers contract with a supplier of an approved service, either via a wholesaler or direct
2.6	In September 2021, we received an application from Sign Language Interactions (“SLI”) for approval of its proposed service for the purposes of GC C5.
2.7	SLI describes itself as a company specialising in providing communication support for deaf and deafblind people, including video relay. SLI explained in its application that it has previous experience of delivering new video relay services in a timely way, for example the implementation, in conjunction with SignHealth, of SLI’s 24/7 BSL Health Access Service.
2.8	SLI’s application, which was published alongside our consultation, <sup>8</sup> set out in detail its proposed emergency video relay service. Among other things, SLI described the platform it intends to use to provide the emergency video relay service via a dedicated app and website, and how it intends to deliver the service.
2.9	In line with the above timetable, we consulted in November 2021 (“the November Consultation”) on our assessment of SLI’s proposed service against the Approval Criteria. <sup>9</sup> We invited responses by 17 December 2021. We received eleven responses from a range of organisations and individuals. Nine of these responses supported our proposal or raised no objection, while two opposed our proposal.

## Purpose of this document

- 2.10 The purpose of this document is to set out our reasons for our decision to approve SLI’s proposed service. We go into more detail on the responses to our consultation and our reasoning in light of those responses in section 3.
- 2.11 The rest of this document is as follows:
- Our legal framework is at the end of this section.
  - Section 3 covers our proposal, the consultation responses and our decision including the reasons for our decision and consideration of the relevant legal tests.
  - Section 4 sets out a discussion of other matters raised in consultation responses relating to implementation of the obligation on communications providers to provide emergency video relay by 17 June 2022.
- 2.12 The annexes are then as follows:
- Annex 1 – Approval Criteria
  - Annex 2 – Extract of General Condition C5
  - Annex 3 – Decision: Approval of an Emergency Video Relay Service

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<sup>8</sup> SLI’s application is available here: [Emergency video relay – proposal to approve Sign Language Interactions’ service](#)

<sup>9</sup> [Emergency video relay: Proposal to approve Sign Language Interactions’ service, Ofcom, November 2021](#)

## Legal framework

- 2.13 The legal framework by reference to which Ofcom amended the General Conditions to require the provision of an emergency video relay service is set out in full in the June Statement.<sup>10</sup>
- 2.14 In relation to the approval of an emergency video relay service, section 49(2) of the Communications Act 2003 (“the Act”) sets out the legal tests that Ofcom is required to satisfy when considering approvals for the purpose of a General Condition. Ofcom must not give an approval for the purposes of a General Condition unless we are satisfied that to do so is non-discriminatory and proportionate and transparent in relation to what it is intended to achieve.
- 2.15 In addition to these legal tests, Ofcom has a range of statutory duties under sections 3 and 4 of the Act (including our principal duty of furthering the interests of citizens and consumers and our duty to have regard to the needs of persons with disabilities), and is also required to have regard to the Statement of Strategic Priorities when carrying out its functions relating to telecommunications.<sup>11</sup> We explain in section 3 below how our decision meets the legal tests in section 49 of the Act and how our decision is consistent with our statutory duties.
- 2.16 Ofcom carried out an impact assessment, for the purposes of section 7 of the Act, and an equality impact assessment, of its proposals and decisions to amend General Condition C5 so as to require the provision of an emergency video relay service, and set the relevant Approval Criteria.<sup>12</sup> Our decision in this statement, i.e. approving a service as an emergency video relay service based on the Approval Criteria, implements and gives effect to these decisions. Accordingly, Ofcom does not consider a further impact assessment to be necessary.<sup>13</sup>
- 2.17 In accordance with section 49(4) of the Act, we have complied with the requirements in section 49A of the Act which sets out the statutory consultation process that Ofcom must adhere to when proposing to give approval for the purposes of a condition set under section 45. This includes considering every representation about the proposal made to us during the consultation period.<sup>14</sup>

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<sup>10</sup> See paragraphs 2.19 to 2.26.

<sup>11</sup> Section 2B(2)(a) of the Act. For this consultation, we have had regard to [the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#) published by DCMS. In particular, section 2.4 “Supporting telecoms consumers, including the most vulnerable” provides that Ofcom should continue to take all opportunities to improve the consumer experience in the telecoms sector including for those with disabilities.

<sup>12</sup> See: [EECC Consultation, Ofcom, December 2019, Further consultation: emergency video relay, Ofcom, February 2021, Statement: emergency video relay, Ofcom, June 2021](#).

<sup>13</sup> For further information about Ofcom’s approach to impact assessments, see the guidelines, [Better policy-making: Ofcom’s approach to impact assessment](#).

<sup>14</sup> Section 49A(6) of the Act. Additionally, we have not been notified by the Secretary of State of any international obligation of the United Kingdom to which we have to have regard (section 49A(6)(b) of the Act).

2.18 Ofcom is required to send to the Secretary of State a copy of every direction, approval or consent given for the purposes of a condition set under section 45.<sup>15</sup>

## Approval of an Emergency Video Relay Service

- 2.19 Under GC C5, providers of Internet Access Services and Number-based Interpersonal Communications Services are required to provide, or contract to provide, an emergency video relay service which has been approved by Ofcom.
- 2.20 In the June Statement, we set out in detail the Approval Criteria by which we would assess whether a service would be approved as an emergency video relay service for the purposes of GC C5, and also explained that:
- a) in order for an emergency video relay service to be approved by Ofcom, the service must satisfy all the Approval Criteria on an ongoing basis;
  - b) a service provider seeking approval must submit evidence to Ofcom that it can satisfy the Approval Criteria on an ongoing basis; and,
  - c) where Ofcom has approved a service, Ofcom may, at any time, by notification in writing to the service provider, withdraw its approval where Ofcom considers that the service provider no longer meets the Approval Criteria.
- 2.21 We reproduce at Annex 1 the Approval Criteria and at Annex 2 an extract of the relevant GCs as set out in the June Statement (including the related definition of an emergency video relay service).

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<sup>15</sup> Section 49C(1)(b) of the Act.

# 3. Our proposal, consultation responses and our decision

## Our proposal

- 3.1 In section 3 of the November Consultation, we set out our detailed assessment of SLI's proposed emergency video relay service, as described in its application received on 2 September 2021 and in further submissions received on 12 October and 2 November 2021. We explained how, in our view, SLI's application demonstrated how its proposed service would comply, on an ongoing basis, with all of the Approval Criteria; and we set out our assessment of its application against the criteria.<sup>16</sup>
- 3.2 We based our proposed approval on the information provided and undertakings given by SLI and upon which detail Ofcom relied. We therefore proposed to exercise our power under section 49 of the Act to give approval to the proposed service as an emergency video relay service for the purposes of GC C5.

## Consultation Responses

- 3.3 We received eleven consultation responses from a range of organisations and individuals. Nine of these responses supported our proposal or raised no objection, while two opposed our proposal.
- 3.4 Of these eleven responses, three responses from individual deaf BSL users and two responses from charities representing deaf people (RNID<sup>17</sup> and SignHealth) were in support of our proposal. RNID said that SLI's experience in delivering similar services, including contactSCOTLAND-BSL and BSL Health Access gave them confidence in SLI's ability to deliver emergency video relay.
- 3.5 Additionally, Community Fibre and the Independent Networks Cooperative Association (INCA) supported our proposal, and Virgin Media O2 and KCOM had no objection.
- 3.6 Two respondents disagreed with our proposal; however, their concerns related to the likely costs of the service and not our assessment of SLI's proposed service against the Approval Criteria.
- 3.7 A number of matters were raised by respondents that are out of scope for this consultation. These are addressed separately in Section 4.
- 3.8 Below we set out and address specific points raised by the consultation respondents that relate to our assessment of SLI's application against the Approval Criteria and our proposal

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<sup>16</sup> Our reasoning takes regard of all material included in SLI's formal application. Any confidential information shared by SLI with us as part of its formal application has been taken into account, but may not be referred to explicitly in our published assessment.

<sup>17</sup> Royal National Institute for Deaf People

as set out in the consultation. We consider that the comments received broadly fall under our assessment of SLI's application against Approval Criteria 5 and 7.

## **Approval Criterion 5: Quality of service**

- 3.9 RNID expressed a hope that the handover of interpreters would be monitored for the benefit of both the interpreters and the callers to ensure that an adequate balance was reached so that information was not lost and that the standard of service remained high.

### **Our response**

- 3.10 SLI said in its application that where possible, an interpreter would complete a call even if it lasted longer than 30 minutes. Interpreters would be trained in using their professional judgement on when and how to bring a second interpreter onto a call, undertaking team interpreting to make sure they captured all linguistic and visual information in highly charged situations. SLI said that this approach would ensure that interpreters had appropriate support during the call and that nothing was misunderstood or misinterpreted. Interpreters would also be trained on determining the appropriate point at which to leave an emergency communication once the emergency services have arrived.
- 3.11 SLI also said that interpreters were supported by shift leads and would be able to take necessary breaks after calls and have the opportunity to debrief.
- 3.12 We consider that these undertakings adequately address RNID's concerns.

## **Approval Criterion 7: Provision on fair, reasonable and non-discriminatory (FRAND) terms**

- 3.13 A confidential respondent argued that the requirement to provide emergency video relay was burdensome and disproportionate on small operators and referred to Criterion 7 in relation to this.
- 3.14 Another respondent, who withheld their name,<sup>18</sup> said that it strongly objected to the idea of Ofcom approving, and thus mandating, any specific commercial vendor until the costs of the proposed service were clearly defined and subjected to public scrutiny.

### **Our response**

- 3.15 In brief, Approval Criterion 7 requires the emergency video relay supplier to undertake to agree to contract in respect of the service on a FRAND basis.<sup>19</sup> We consider the written undertakings given by SLI's director, which we summarise in the paragraph below, to be sufficient to satisfy this criterion.
- 3.16 In its application for approval, SLI gave a written undertaking that it would agree to contract in respect of the service on a FRAND basis as part of any contract with any

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<sup>18</sup> Hereafter Name Withheld

<sup>19</sup> See the full criterion at Annex 1

regulated provider, wholesaler and/or another third-party intermediary. It also undertook to ensure the inclusion of a clause in such contracts, documenting that the contract has been agreed on that basis. It further undertook that if it were to enter into a contract with an intermediary in respect of this service, it would require as part of that contract that the intermediary will contract with regulated providers on a FRAND basis and that the intermediary will ensure the inclusion of a clause in its contracts, documenting that the contract has been agreed on that basis.

- 3.17 With regard to the issue of how SLI charge for the proposed service and the objection raised against approving a service until the costs of the service are clearly defined and subject to public scrutiny, as we said in our June Statement, it will be a matter for the emergency video relay service, rather than Ofcom, to determine with industry the most appropriate method of cost recovery. This is the case for other modes of emergency communications such as 999 calls. As we said in our February 2021 further consultation, voice 999 call handling, text relay and emergency SMS are all commercial wholesale products and Ofcom has no role in setting the price for these services.<sup>20</sup>
- 3.18 We also said in our February 2021 further consultation that if the costs were spread over the whole industry, the costs that any individual provider would need to bear would be very low. We said in our June Statement that for reasons of practicality, it would be open to the approved emergency video relay supplier (or a wholesaler if there were one) to agree contracts with very small regulated providers for a nominal value. We also said that to fulfil contracting for the provision of the service on a FRAND basis, it is likely that any mechanism to recover the costs would need to take account of the relative size of different providers.
- 3.19 The principle of the obligation to provide and fund emergency video relay and the issue of proportionality is dealt with further in Section 4.

## Our decision

- 3.20 Having carefully considered SLI's formal application (including its further submissions)<sup>21</sup> and all the responses to the consultation, we have decided to approve SLI's proposed emergency video relay service for the purposes of GC C5 (as amended).
- 3.21 The approval will take effect on 27 January 2022 and will remain in place unless otherwise withdrawn by Ofcom. While we consider that SLI's proposed service meets the Approval Criteria, and should be capable of ongoing compliance with them, we will monitor the performance of the service once it is in operation.<sup>22</sup> We may, at any time, by notification in

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<sup>20</sup> [Emergency video relay: further consultation](#)

<sup>21</sup> The November Consultation sets out our assessment of SLI's application against the Approval Criteria and reasons why we consider SLI's proposed service met these.

<sup>22</sup> Under Approval Criterion 2, the supplier of an approved service must report to Ofcom every quarter on matters such as number of app downloads, number of emergency communications, average speed of answering and the number and nature of complaints.

writing to SLI, withdraw our approval where we consider that SLI's service no longer meets the Approval Criteria.

- 3.22 The obligation imposed on communications providers to provide emergency video relay will come into effect on 17 June 2022. Communications providers are able to use SLI's service in order to meet this obligation.

## Legal tests

- 3.23 We consider that our decision to approve SLI's proposed service satisfies the legal tests set out in section 49 of the Act. In particular, we consider that our decision to approve SLI's proposed service is:
- a) **not unduly discriminatory** because we assessed any applications received for approval of an emergency video relay service against the same set of Approval Criteria, and our decision to approve SLI's proposed service will not preclude the approval of other emergency video relay services in the future should they meet the Approval Criteria;
  - b) **proportionate** because we considered the evidence and undertakings given by the applicant in support of its application to become an approved emergency video relay service supplier demonstrated that the applicant's proposed service met the Approval Criteria. We also consider that our approval of an emergency video relay service as soon as possible is a prerequisite to the ability of communications providers to comply with the requirements of GC C5 from 17 June 2022. Additionally, as explained in our previous consultations and statement on the matter,<sup>23</sup> the provision of an emergency video relay service will have a positive impact on deaf BSL users including: increased dignity and peace of mind by being able to communicate and receive life-saving information in their first language; faster responses to their requests for assistance thereby possibly lessening the extent of injuries and reducing the likelihood an emergency will result in death; and
  - c) **transparent** because the November Consultation explained how we assessed SLI's application against each of the Approval Criteria and explained why we consider SLI's proposed service to meet these.
- 3.24 Therefore, we consider that our decision to give approval is in line with the requirements under section 49(2) of the Act.
- 3.25 Furthermore, we have acted in accordance with our general duties in section 3 of the Act and the six requirements in section 4 of the Act. We have had particular regard to the needs of persons with disabilities and believe our decision to approve SLI's proposed emergency video relay service is in line with Ofcom's primary duty to further the interests of citizens and consumers.

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<sup>23</sup> See: [EECC Consultation, Ofcom, December 2019](#), [Further consultation: emergency video relay, Ofcom, February 2021](#), [Statement: emergency video relay, Ofcom, June 2021](#)

## 4. Implementation of emergency video relay

- 4.1 This section seeks to address matters raised by the consultation respondents about communications providers' implementation of emergency video relay by 17 June 2022. These matters are separate to the approval process of SLI's proposed emergency video relay service. This section covers points relating to cost recovery, future applications for approval of services, the scope of the obligation, the design and development phase, the timetable and the promotion of the service.

### Cost recovery and proportionality for smaller regulated providers

- 4.2 Two respondents objected to the obligation on communications providers to provide emergency video relay, especially for smaller providers which they said would be disproportionately affected. Cost recovery was raised as a particular issue for these smaller providers, which stated that there was a lack of clarity about costs they would have to bear.
- 4.3 One respondent, Name Withheld, said that approval of any mandatory service needed to come with agreed costs to internet service providers as part of the approval process. It said that there were no commercial terms in the consultation document.
- 4.4 This respondent said that where it provided VoIP telephony, the costs of delivering voice 999 calls were factored into the charges to customers and that the cost of this was known. It said, "we absorb this known cost as there is a requirement to provide free access to the emergency services".

### Our response

- 4.5 The decision that communications providers, including providers of internet access services, are required to provide emergency video relay by 17 June 2022 was made in our June Statement following consultation. Cost recovery was also covered in the June Statement. We said it was a matter for the emergency video relay service, rather than Ofcom, to determine with industry the most appropriate method of cost recovery. This is the case for other modes of emergency communications such as voice 999 calls.<sup>24</sup> Proportionality, including the consideration of smaller providers, was addressed in Section 12 of the June Statement.
- 4.6 Emergency video relay will provide free access to the emergency services for deaf BSL users, which is equivalent with voice 999 calls. Voice 999 calls, text relay and emergency SMS are existing obligations on communications providers and their prices are not set by Ofcom.

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<sup>24</sup> Section 5, [June Statement](#).

- 4.7 We published information about the possible cost of emergency video relay, and about the proportionality of the obligation, in two consultations<sup>25</sup> and in the June Statement.

## **Wholesaling on fair, reasonable and non-discriminatory (FRAND) terms**

- 4.8 INCA said that it would consider whether it could be an intermediary or wholesaler for its members and that it would therefore welcome a tighter safety net around the obligation to supply access to the video relay services on FRAND terms.

### **Our response**

- 4.9 Approval Criterion 7, as set out in the June Statement, requires the approved emergency video relay supplier to undertake to contract on a FRAND basis. We consider that this criterion should give comfort to communications providers.
- 4.10 The requirement expressly refers to contracts with wholesalers and/or other third-party intermediaries as well as to contracts agreed directly with communications providers.
- 4.11 We also indicated in the June Statement that we considered it would be reasonable for a wholesaler of emergency video relay to charge for its administrative work so long as this was also on FRAND terms. As part of the Approval Criteria, the emergency video relay supplier would require the intermediary to agree as part of that contract that it will contract with regulated providers on a FRAND basis (with a FRAND clause documenting that the contract has been agreed on that basis).

## **Dispute resolution in relation to FRAND terms**

- 4.12 INCA said it was concerned that Ofcom was not offering to act as the dispute resolution body, should disputes arise in relation to the terms of supply.

### **Our response**

- 4.13 The terms on which the service is to be provided are a matter for commercial negotiation between the parties. Ofcom would not normally act as a dispute resolution body in relation to commercial arrangements. We consider that, as would normally happen with other commercial contracts, the means of dispute resolution should be agreed as part of that contract.

## **Future applications for approval of emergency video relay services**

- 4.14 INCA said that it would welcome clarity on whether Ofcom may consult on approving further emergency video relay services. Community Fibre said that for resilience and commercial reasons, it would be concerned if there was a monopoly provider of emergency video relay services in the UK and said that it would appreciate further information from Ofcom about how it intended to attract further applications for approval.

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<sup>25</sup> The December 2019 EECC Consultation and the February 2021 further consultation.

## **Our response**

- 4.15 Our June Statement explained that it is possible for there to be more than one approved video relay service. Video relay suppliers are welcome to submit applications for approval of an emergency video relay service at any time. Any applications will be considered by Ofcom against the Approval Criteria and any proposal to approve would be subject to public consultation.

## **The scope of the obligation**

- 4.16 Name Withheld said that to require them to fund the provision and ongoing use of the service indicated a very distorted and narrow understanding of what their core business involved as a small, niche internet service provider.

## **Our response**

- 4.17 In section 4 of the June Statement, we explain why we imposed the obligation of the provision of emergency video relay on internet access service providers as well as telephony providers, and also address questions about how the service will be funded.<sup>26</sup>

## **Design and development of the video relay service**

- 4.18 INCA said that it would welcome more information about how SLI planned to interact with regulated providers and their representatives during the design and development process. INCA said it “would welcome the establishment of an industry working group, with representation from Ofcom and other the OTA2” to enable transparency and representation of all interested parties.<sup>27</sup>

## **Our response**

- 4.19 We agree that it would be useful for industry to establish a working group, and would be happy to attend meetings of any such group.

## **Timetable to implementation**

- 4.20 RNID said that it was confident that an emergency video relay service would have a positive impact on the BSL community and, most importantly, save lives. It would not want to see the implementation date deferred.
- 4.21 Virgin Media O2 said that should SLI’s application be approved, it would welcome a conversation with Ofcom, possibly including other providers, to ensure that the implementation timescale was workable and that it also took into account any possibility

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<sup>26</sup> See paragraph 4.22 to 4.34 of the June Statement. With regards to net neutrality, we cover this in section 6 of the June Statement and we also said that Ofcom was carrying out a review of the net neutrality framework, which includes consideration of the treatment of communications with the emergency services ([Net neutrality review, Ofcom, September 2021](#)).

<sup>27</sup> OTA2 (the Office of the Telecommunications Adjudicator) is an independent organisation tasked by Ofcom to work with Communication Providers in order to eliminate process issues and enable a competitive environment.

of setting up and agreeing a wholesale model - Virgin Media O2 noted that this was currently being proposed and coordinated by BT. KCOM also mentioned that BT had expressed interest in providing the service but noted that this had not been confirmed. KCOM suggested that in light of the timescale, Ofcom could set a deadline for the provision of a commercial proposal by SLI. KCOM also urged Ofcom to remain engaged in ongoing negotiations so that it had early notice of any challenges arising. Given the very tight timescales for finalising arrangements, KCOM said Ofcom must be ready to delay enforcement of the requirement to provide access to the service if there were commercial and/or technical issues which could not be addressed in the time available.

#### **Our response**

- 4.22 Both SLI and industry are aware of the timescales to implementation that were first set out in Ofcom's initial consultation on emergency video relay that was part of the December 2019 EECC consultation, and in our June Statement. In its application, SLI provided detailed information about the experienced team who would lead the project, including appointing a dedicated project manager for emergency video relay. It also referred to its experience of successfully overseeing the implementation and delivery of 24/7/365 video relay services. SLI also said it was confident that it could develop and implement the emergency video relay service by 17 June 2022.
- 4.23 Implementation is a matter for industry rather than for Ofcom, but we agree that an implementation working group would be likely to be useful so we would be happy to attend any such meetings at the invitation of industry. We will also engage with Sign Language Interactions, and will continue to engage with communications providers as they implement all the new consumer protections that will apply from 17 June 2022, including emergency video relay.
- 4.24 BT has indicated to us that it is considering becoming a wholesaler and is discussing the viability of doing so with industry stakeholders.

#### **Promotion of the service**

- 4.25 RNID welcomed SLI's proposal to have a dedicated marketing and creative design team, noting that the promotion of emergency video relay was integral to making it readily available to the deaf community. RNID also said that promotion of emergency video relay in partnership with other deaf organisations would be a great help to the success of the service and that it would be happy to help with disseminating information.

#### **Our response**

- 4.26 We agree that promotion of the service is extremely important and welcome RNID's offer of help. We will work with organisations such as deaf charities to help publicise emergency

video relay via their publications and social media channels. Communications providers will also have an obligation to publicise this service.<sup>28</sup>

## Next steps

- 4.27 This statement sets out our decision to approve SLI's emergency video relay service. Approval of at least one emergency video relay service gives effect to our decision to require emergency video relay. Other suppliers can submit applications for approval of an emergency video relay service at any time, and we will consider those applications against the Approval Criteria.
- 4.28 The emergency video relay obligation requiring providers to contract with a supplier of an approved service, either via a wholesaler or directly, will come into effect on 17 June 2022.
- 4.29 Providers will be required to promote the emergency video relay service, in the same way they are currently required to promote text relay and emergency SMS.<sup>29</sup> We will also work with organisations such as deaf charities to help publicise emergency video relay via their publications and social media channels.

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<sup>28</sup> General Condition C5.6 provides that: Regulated Providers must take the measures needed to meet the needs of End-Users with disabilities set out in Conditions C5.7 to C5.16 and take all reasonable steps to ensure that such measures are widely publicised, taking into consideration the need to disseminate information in appropriate formats through appropriate channels for End-Users with disabilities.

<sup>29</sup> See General Condition C5.6 and Ofcom's guide to publicising services available to disabled people (which we will be updating).

# A1. Approval Criteria

## 1. General compliance

The service must be an Emergency Video Relay Service as referred to in the General Conditions and must be capable of satisfying all the requirements set out in the Emergency Video Relay General Condition at C5.

## 2. Accountability and reporting

The service provider must monitor and report to Ofcom, every quarter, on its operation. The report must be in a form specified by Ofcom and must include the following information:

- a) number of app downloads;
- b) number of emergency communications;
- c) average speed of answering, measured in 15-minute intervals; and
- d) number of complaints and information about the nature of the complaint (without sharing or publication of details that could identify any complainant).

The provider must also publish an annual report covering compliance with the Approval Criteria and any related issues as directed by Ofcom.

## 3. Access

The service provider must do the following:

- a) Make provision for End-Users to access the Emergency Video Relay Service via a dedicated app and a dedicated website, free of charge (including but not limited to the app itself being available free of charge).
- b) Ensure clear and user-friendly instructions on how to use the Emergency Video Relay Service are made available in both British Sign Language (BSL) and English on the app and the website.
- c) Ensure, where technically feasible, that the incident location information is automatically obtained from the device being used by the End-User in an efficient and timely way e.g. automatically via the app or website. The validity of the incident location information must always be verified with the End-User in BSL.
- d) Maintain a system whereby telephone numbers and/or other contact information from the End-User are obtained to enable call-backs and/or other contact to be made. The retention period for this information must be in line with the retention period used for other emergency relay services and the service provider must comply with all applicable data protection and privacy laws.

- e) Liaise with regulated providers, including during the design and development phase of the service and/or app, with a view to facilitating zero-rating of data used in connection with the service and/or app.
- f) Ensure that the service shall be available to end-users without any requirement to register to use or access the service.

## 4. Operational matters

All persons acting as interpreters for the Emergency Video Relay Service must:

- a) be on the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) register for qualified interpreters;
- b) have at least three years' post-qualification experience acting as a BSL interpreter in a range of settings; and
- c) have had a clear Disclosure and Barring Service (DBS) check within the last two years.

The Emergency Video Relay Service must have a dedicated, well-lit and soundproofed video interpreting room. There should be restricted access to the room.

The interpreter should be equipped with a suitable microphone and headset.

## 5. Quality of service

Emergency communications must be answered within 5 seconds 95% of the time, measured in 15-minute intervals.

Emergency communications should not be subject to a handover from one interpreter to another unless they continue for more than 30 minutes.

Regular bi-monthly quality of service checks of emergency communications must be carried out by senior interpreters retained by the Emergency Video Relay Service.

Video conversations must be recorded. Retention of any recording should be in line with the retention periods for emergency voice calls and recordings must be stored safely, securely and accurately, in line with standards for voice calls and the service provider must comply with all applicable data protection and privacy laws.

## 6. Adequate resources

The service provider must be able to demonstrate that:

- a) it has sufficient funds, facilities and staff to provide the Emergency Video Relay Service and enable it to perform properly the administrative, technical and professional work associated with the tasks for which it has been appointed;
- b) the systems deployed and managed by the service provider have sufficient technical resilience and resources to provide an uninterrupted service, so far as is technically feasible; and

- c) it has appropriate provision for complaints handling.

## **7. Provision on fair, reasonable and non-discriminatory terms**

(1) The Emergency Video Relay Service provider must:

- a) undertake to agree to contract in respect of the service on a fair, reasonable and non-discriminatory basis as part of any contract with any Regulated Provider or wholesaler and/or some other third party intermediary; and
- b) to ensure the inclusion of a clause in such contracts, documenting that the contract has been agreed on that basis.

(2) If the Emergency Video Relay Service provider enters into a contract with an intermediary in respect of Emergency Video Relay, the Emergency Video Relay Service provider must:

require as part of that contract, that the intermediary shall contract with Regulated Providers on a fair, reasonable and non-discriminatory basis; and that the intermediary shall ensure the inclusion of a clause in its contracts, documenting that the contract has been agreed on that basis.

## A2. Extract of General Condition C5

A2.1 Below we reproduce the relevant GCs as set out in the June Statement (including the related definition of an emergency video relay service). These conditions were made on 22 June 2021 and will come into effect on 17 June 2022.

### General Conditions

C5.1 *The provisions of this **Condition** apply as follows:*

(a) **Conditions** C5.2 to C5.10 and C5.13 to C5.18 apply to providers of **Public Electronic Communications Services**; and

(b) **Conditions** C5.11 and C5.12 apply to any person who provides:

(i) **Internet Access Services to End-Users**; or

(ii) **Number-based Interpersonal Communications Services**, where it is technically feasible to provide an **Emergency Video Relay Service to End-Users**

*each person to whom a provision applies is a “**Regulated Provider**” for the purposes of that provision.*

C5.11 **Regulated Providers** must:

(a) provide or contract to provide an **Emergency Video Relay Service** which has been approved by **Ofcom**; and

(b) ensure that any **End-User** of **Internet Access Services** or **Number-based Interpersonal Communications Services** they provide, who communicates in British Sign Language because of their disabilities, can access and use the **Emergency Video Relay Service**.

C5.12 In providing access to and facilitating use of **Emergency Video Relay Services** under **Condition C5.11**, **Regulated Providers** must:

(a) provide the **Emergency Video Relay Service** free of charge to the **End-User**;

(b) where technically feasible, apply an incremental price of zero to any data traffic associated with the use of the **Emergency Video Relay Service**;

(c) ensure measures are taken to protect the confidentiality of communications between **End-Users** of the **Emergency Video Relay Service** and the **Emergency Organisations**;

(d) subject to **Condition C3.11**, ensure that the **Emergency Video Relay Service** is available for lawful use by **End-Users** at all times; and

(e) comply with any directions in respect of the **Emergency Video Relay Services** which **Ofcom** may make from time to time.

**'Emergency Video Relay Service'** means any service which:

- (a) for the purposes of requesting and receiving emergency relief from **Emergency Organisations**, provides British Sign Language translation and relay facilities for emergency communications to be conveyed via video between any **End-User** and **Emergency Organisations**;
- (b) is capable of being accessed by **End-Users** of the service from readily available compatible terminal equipment with video capabilities, including smartphones and computers or tablets;
- (c) provides facilities for access to **Emergency Organisations** and is available twenty-four hours a day, seven days a week;
- (d) insofar as reasonably practicable, allows for communication between **End-Users** of the service at speeds equivalent to voice communications;
- (e) provides a means of communicating by text in conjunction with video relay.

## A3. Decision – Approval of an Emergency Video Relay Service

**Approval of Sign Language Interactions' proposed Emergency Video Relay Service, in accordance with section 49 of the Act, for the purpose of General Condition C5.**

### Background

1. On 22 June 2021, Ofcom published a statement (“the June Statement”) setting out its decision to require providers of fixed and mobile telephony services (i.e. number-based interpersonal communications services), where it is technically feasible, and providers of internet access services, to provide, or contract to provide, a free 24/7 video relay service for deaf BSL users which has been approved by Ofcom, to enable communication with the emergency services. General Condition C5 will be amended, with effect from 17 June 2022, to implement the provision of this Emergency Video Relay Service.
2. The June Statement set out the General Conditions imposed in relation to emergency video relay and also set out the approval criteria that would have to be met in order for a service to be approved by Ofcom as an emergency video relay service (“the Approval Criteria”).
3. In the June Statement, we also explained that:
  - in order for an emergency video relay service to be approved by Ofcom, the service must satisfy all the Approval Criteria on an ongoing basis;
  - a service provider seeking approval must submit evidence to Ofcom that it can satisfy the Approval Criteria on an ongoing basis; and,
  - where Ofcom has approved a service, Ofcom may, at any time, by notification in writing to the service provider, withdraw its approval where Ofcom considers that the service provider no longer meets the Approval Criteria.
4. In September 2021, Sign Language Interactions (SLI) applied to Ofcom for approval of its proposed Emergency Video Relay Service for the purposes of General Condition C5 as amended (“GC C5”).
5. Prior to giving approval for the purposes of a General Condition set under section 45, Ofcom must publish a notification of its proposal to give the approval (section 49A(3) of the Act) and consider every representation about the proposal made to Ofcom during the period specified in the notification (section 49A(6)(a) of the Act); and have regard to every international obligation of the United Kingdom (if any) which has been notified to Ofcom for the purposes of section 49A(6)(b) of the Act by the Secretary of State.
6. On 17 November 2021, Ofcom published a notification in accordance with section 49A(3) of the Act of its proposal to approve SLI's proposed emergency video relay service for the purposes of GC C5 (the “Notification”). The Notification invited representations to Ofcom by no later than

5pm on 17 December 2021.

7. The Notification was accompanied by a consultation setting out our assessment of SLI's proposed emergency video relay service against the Approval Criteria ("the November Consultation").
8. Ofcom has considered every representation about the proposal made to it. Ofcom has also had regard, in particular, to the Approval Criteria as set out in the June Statement. Furthermore, Ofcom has considered and acted in accordance with its general duties in section 3 of the Act and the six requirements in section 4 of the Act.
9. Ofcom has complied with the requirements in section 49 of the Act. In particular, Ofcom is satisfied that the decision to approve SLI's proposed service is non-discriminatory and proportionate and transparent in relation to what it is intended to achieve, in accordance with section 49(2) of the Act; and Ofcom has complied with the requirements in section 49A of the Act (in accordance with section 49(4) of the Act).
10. Ofcom has also had regard to the Statement of Strategic Priorities in making the decision referred to in this annex.
11. The Secretary of State has not notified Ofcom of any international obligation of the United Kingdom for the purposes of section 49A(6)(a) of the Act.

#### **Decision**

12. For the reasons set out in the November Consultation and the statement accompanying this decision, Ofcom considers that SLI's proposed emergency video relay service meets the Approval Criteria and therefore, Ofcom hereby approves SLI's proposed emergency video relay service for the purposes of GC C5 (as amended).
13. This approval shall take effect on the day this annex is published.
14. In accordance with section 49C(1)(b) of the Act, a copy of this approval has been sent to the Secretary of State.

#### **Interpretation**

In this annex —

- (a) "Act" means the Communications Act 2003;
- (b) "Approval Criteria" means the final approval criteria as set out in Annex A1 in the Emergency Video Relay statement published on 22 June 2021;
- (c) "Ofcom" means the Office of Communications.

For the purpose of interpreting this annex —

- (a) headings and titles shall be disregarded;
- (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

A handwritten signature in black ink, appearing to read "Fergal Farragher".

Fergal Farragher

**Director of Telecoms Consumer Protection**

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

27 January 2022