

# Life threatening and unwelcome communications

This position statement applies to complaints about life threatening and unwelcome communications received over a telecommunications service.

A **life threatening communication** involves the use of a carriage service connected with an event which gives a person reasonable grounds to believe that there is a serious and imminent threat to the life or health of a person.

Examples of these types of communications include:

- a threat to seriously injure a person
- a bomb threat
- an extortion demand
- a kidnapping threat
- a threat to public safety.

**Unwelcome communications** are unsolicited communications that, by virtue of the content, frequency or timing, are offensive or tend to menace or harass the recipient.

Complaints we commonly receive include claims that a telecommunications provider has not followed the correct process for dealing with life threatening or unwelcome communications.

## Laws and codes of practice

The following laws and codes of practice are relevant to life threatening and unwelcome communications.

- [Criminal Code Act 1995](#)
- [Handling of Life Threatening and Unwelcome Communications Code 2010](#)

## Our approach

When we deal with complaints about life threatening and unwelcome communications we consider the law, good industry practice, and fairness in all the circumstances.

## The law

The [Criminal Code Act](#) prohibits the use of a carriage service in a way that reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive.

## Good industry practice

The [Handling of Life Threatening and Unwelcome Communications Code](#) gives the following rules.

## Life threatening communications

The Code sets out procedures for cooperative handling of life threatening communications, including the requirement for immediate, predictable and coordinated action from all providers involved.

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## POSITION STATEMENT

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Obligations on the consumer's provider include:

- referring the consumer to the police
- running a trace to identify the source of the communications
- once the source is identified, reporting the identity of the source to the police.

The provider cannot reveal the source of the communications to the consumer.

### Unwelcome communications

Before a provider is required to follow the Code rules:

- the person complaining about the unwelcome communications must be the account holder, or their authorised representative
- an unwelcome communication must have been received within the last 30 days
- a pattern of unwelcome communications must be identified.

The Code defines a pattern of unwelcome communications as:

- ten or more unwelcome communications in a 24 hour period, or
- three or more unwelcome communications that are spread over a period of more than 24 hours and less than 120 hours, or
- unwelcome communications made at consistent and/or regular intervals.

Once these criteria are met the provider's obligations include:

- telling the consumer about all available options to solve the problem, for example:
  - using voicemail to screen callers
  - activating calling number display and blocking
  - changing phone numbers and email addresses
  - arranging email blocking with the consumer's email client
  - registering for the Do Not Call Register

- with the consumer's consent, disclosing their details to all other relevant providers to identify the source of the unwelcome communications and arrange for the unwelcome communications to stop.

The provider cannot reveal the identity of the source of the communications to the consumer.

### TIO view

When a consumer complains to their provider about unwelcome communications that are not covered by the [Handling of Life Threatening and Unwelcome Communications Code](#) rules it is good practice for the provider to tell the consumer about the available options that could help stop the unwelcome communications.

Examples include when:

- the unwelcome communications do not form a pattern according to the Code
- an unwelcome communication has not been received within the last 30 days
- the person complaining is not the account holder or their authorised representative.

### Dealing with a dispute

We may deal with a complaint about life threatening and unwelcome communications as an urgent complaint if we think following standard timeframes may expose the consumer to a risk to their health or safety. Our procedures for handling urgent complaints are set out in the [TIO Complaint Handling Procedures](#).

When dealing with these complaints we may ask for the following information:

- What did the consumer tell the provider about the communications they were receiving? What did the provider and consumer then do?
- Has the provider followed the [Handling of Life Threatening and Unwelcome Communications Code](#)?

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- If the communications were unwelcome but not covered by the Handling of Life Threatening and Unwelcome Communications Code did the provider still help the consumer? How?

## Outcomes

If our view is that a provider has not followed relevant procedures correctly we expect the provider to meet its obligations under the Handling of Life Threatening and Unwelcome Communications Code.

When the Code does not apply we will consider what help the provider can offer the consumer to minimise or stop unwelcome communications.

**Effective date:** 11 March 2016

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