



# BT Compliance Committee Bulletin

**Issue 15**

December 2021

## Introduction

Welcome to Issue 15 of the BT Compliance Committee Bulletin, in which we provide an overview of the items considered at the BT Compliance Committee's (BTCC) November 2021 meeting.

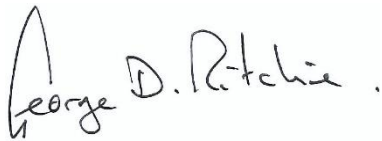
Our guest speakers at the November meeting were Lindsey Fussell, Martin Ballantyne and Gaucho Rasmussen of Ofcom, who provided an update on Ofcom's monitoring of the Commitments over the last year and its plans for its Openreach Monitoring Unit.

The BTCC also heard about, and discussed, the following topics:

- Howard Watson, BT's Chief Technology Officer and CEO of BT's Networks unit, attended to share his views on how his organisation lives up to the letter and spirit of the Commitments,
- The role of alternative fibre network providers in supporting DCR outcomes, and
- Monitoring reports on the key BT and Openreach processes (Financial Planning, Strategy Development and Commercial Processes).

In addition the BTCC considered and decided on four cases (two trivial breaches of the Commitments and two trivial non-conformances with processes intended to support the Commitments).

The BTCC's next meeting will be at the end of January 2022. If you would like to get in touch in the meantime, please contact us via [cao@bt.com](mailto:cao@bt.com).



George Ritchie  
Commitments Assurance Director  
13 December 2021

# 1. BTCC focus areas

## 1.1. Guest Speaker: Ofcom

The Committee welcomed Lindsey Fussell (Networks & Communications Group Director), Martin Ballantyne (General Counsel) and Gaucho Rasmussen (Director of Investigations and Enforcement) from Ofcom, who provided an update on Ofcom's monitoring of the Commitments over the last year and its plans to evolve the role of its Openreach Monitoring Unit following the publication of Ofcom's Wholesale Fixed Telecoms Market Review final statement in March 2021.

## 1.2. Views from BT's Networks unit

The Committee heard from Howard Watson, BT's Chief Technology Officer and CEO of BT's Networks unit. He shared his perspectives on the restructure of BT's former Technology division to create the new Networks and Digital units, the dynamics of working with Openreach and how Networks fulfils its parent and supplier roles within the Commitments.

## 1.3. Alternative Fibre Networks: A DCR outcomes assessment

The Committee heard from Howard Watson, BT's Chief Technology Officer and CEO Networks, Neil McRae, BT's Chief Architect and Clive Carter, BT's Regulatory Affairs Director, Group & Governance about BT's view of the current status of the alternative fibre network space. This included BT's assessment of altnets' progress towards their declared ambitions and an overview of the challenges to be addressed to progress FTTP build at scale.

## 1.4. BT Report

Sabine Chalmers, Group General Counsel and Director of Regulatory Affairs, and Clive Carter, Regulatory Affairs Director, Group & Governance, reported to the Committee on developments since the July 2021 meeting, including:

- An update on Ofcom's plans to publish its annual monitoring report assessing the Commitments and DCR outcomes, and the submissions from BT Group, BT downstream units and Openreach;
- BT's views on how it considers that it is performing in delivering the Commitments; and
- Details of activities undertaken from a Commitments perspective as a result of recent Digital and Networks organisational design changes.

In addition, the Committee noted Openreach and BT have completed their review of the suite of Guidance Notes intended to support delivery of the Commitments (including Strategy Development, Financial Planning and Commercial Processes). Following Openreach Board approval, these have been [published externally](#) to provide transparency. The key controls remain and now show more clearly the risks the controls seek to guard against and reflect some simplification of the process made with the benefit of several years' experience. BT and Openreach anticipate this should make it easier and more intuitive for users to understand the purpose and intent of the controls. The changes are summarised in Section 3.

## 1.5. Compliance Framework

The Committee heard from David Viles, BT Group's Director of Risk, Compliance & Assurance, about BT's Compliance Framework and how this is applied to the Commitments and issues that relate to DCR outcomes.

## 1.6. Monitoring and Compliance Report

### 1.6.1. Financial Planning and Strategy Development Processes

The Committee received the CAO's report on its joint monitoring of the key Financial Planning and Strategy Development processes alongside Openreach's Commitments Monitoring Office. The BT and Openreach strategy teams each reported that the Strategy Development process works from a business perspective, and Openreach is satisfied it continues to have the requisite degree of independence. The Openreach Executive and Openreach Board strategy days had been completed, with high-level outputs and key priorities due to be presented during November to the BT Chief Executive and non-CFU ExCo members. The CAO's monitoring focus has moved from Strategy Development to Financial Planning for the remainder of 2021/22. The process timetable has been issued by Group Finance, and the CAO is holding regular meetings with key stakeholders and tracking key documents as the process progresses.

### 1.6.2. FTTP Engagements and Pricing

The Committee received the CAO's report on its monitoring of matters considered under the Commercial Processes Guidance Note. During Q1 2021/22, the Openreach Commercial Policy and Pricing Board approved 41 items with only one (Project Equinox, Openreach's long-term FTTP pricing) referred to BT in line with BT Group's delegations of authority.

### 1.6.3. Approach to Breach and Non-Conformance Case Classification

At the July meeting the BTCC requested consideration be given by the CAO to the point at which repeats of "trivial" breach or non-conformance cases ought to be classed as "serious". The CAO reported its recommendations, having considered the issue by reference to how the BTCC can have confidence that (1) it is categorising individual cases correctly; and (2) those decisions align with its [terms of reference](#), in particular whether the culture in BT and the behaviours of BT people are conducive to BT's compliance with the Commitments and delivery of DCR outcomes.

The BTCC's current approach is to assess each case on its own merits by reference to the 7 factors set out in Annex 4 of the CAO's Operating Manual. One factor is "frequency" (which captures repetition), and key cultural metrics are captured by "seniority" and "intent". Thus, the assessment is not mathematical – a case may have a single aggravating feature which is so serious that it outweighs all others, leading to a case being viewed as serious, or a collection of aggravating features, taken together, may also result in a finding that the breach was serious. The 7 factor framework therefore offers flexibility while signalling that the BTCC will consider repeat issues as pointing towards a matter being more likely to be deemed serious.

The CAO also presented its analysis on whether there is merit in moving to a model where at a certain point trivial cases will be automatically viewed as serious (e.g. a "three strikes" model for the same person or team). While such a move may have benefits in terms of driving for a zero-breach culture and emphasising the need to get compliance right, it is unsubtle. The CAO explained behaviours which are, in isolation, at the lower end of trivial risk being viewed with excessive harshness, and such an approach may end up driving the wrong behaviours if it disincentives people from speaking up, thereby undermining the ability to fix things and to learn from past cases.

The BTCC agreed with the CAO's recommendation to maintain its current approach where cases are assessed individually by reference to the 7 factor framework, but with triangulation against other sources of insight, such as previous trivial cases, CAO quick checks and deep dives.

The assessment framework is set out in Section 4 of this Bulletin.

## 2. Quick Checks and Breaches Report

### 2.1. Quick Checks

The BTCC considered one “quick check” undertaken by the CAO.

#### 2.1.1. Quick Check No 13: Executive Level FTTP Network Status Enquiry

The Openreach Chairman asked the CAO Director to review a potential concern in Openreach that on one occasion BT had appeared to send a request to Openreach to build FTTP to a specific location outside of standard industry processes. The Openreach Chief Engineer had raised concerns as he felt such a situation risked diverting resource from Openreach’s FTTP roll out plans.

The CAO’s investigation found the apparent request concerned an email originally sent by the BT Chief Executive’s office manager who was supporting a customer with an enquiry about what services were available in their area. On investigation, the CAO found that two years ago BT and Openreach had agreed a process for dealing with such enquiries. The process entails matters being sent by the BT Chief Executive’s office manager to the escalations team in BT’s Consumer unit. The Consumer team then engages with Openreach via standard industry routes. BT and Openreach each confirmed to the CAO that the correct process had indeed been followed in this instance. The CAO found that on this occasion, the email sent by the BT Chief Executive’s office manager regarding the specific location had been misunderstood at first sight by Openreach (the email sought a status update per the agreed process, and was not a build request). Furthermore, separately, Openreach has confirmed to the CAO that it considers that its governance controls would prevent inappropriate influencing of the Openreach FTTP build programme in the event BT did seek to influence Openreach’s plans on behalf of an individual customer.

Thus the CAO recommended to the BTCC that there was no need to open a breach investigation. The BTCC agreed with this recommendation.

### 2.2. Cases notified to the BTCC for consideration

The BTCC considered and decided four cases at the November meeting that were referred by BT’s Senior Manager, CRC.

The BTCC decided two issues to be trivial breaches of section 10 of the Commitments relating to the information sharing rules around the management of Openreach Commercial Information (CI):

- CAO-38: Strategy KPI Dashboard.** A Manager in the Insights team shared a KPI dashboard with seven people in Consumer. The dashboard contained high-level details of Openreach KPIs which BT considers is Openreach CI. The CI was highlighted, albeit not clearly, in the document. The seven recipients did not have, and were not eligible for, Regulatory Compliance Markers<sup>1</sup> (RCMs). This was a manual error made in haste in the run up to annual leave. One recipient alerted the sender of their error; the other recipients confirmed to the sender they had deleted the email without reading it. As remedial action, CRC briefed the document author on the need to follow

<sup>1</sup> People in other parts of BT Group who have a legitimate reason to receive Openreach Commercial Information (CI) or Customer Confidential Information (CCI) must have a valid Regulatory Compliance Marker (RCM). This is evident from their online Directory entry. In order to allow Openreach CI or CCI to be shared, there must be an Information Sharing Agreement (ISA) in place covering the information to be shared. If there is no ISA, or the purpose is outside the scope of the relevant ISA, the sender must create a separate online disclosure record. Group Regulatory Compliance collates these records and they form part of a quarterly Disclosure Report presented to the OBARCC.

document marking protocols around Openreach CI, and briefed the Insights Manager to remind them of the information sharing rules.

- **CAO-39: Incorrect Sharing of Market Insight Report.** A Strategy Manager in Networks forwarded a report to four Enterprise recipients without RCMs. The report contained high-level aggregate historic FTTP data which BT considers to be Openreach CI. The Strategy Manager forwarded the paper in error. One of the recipients raised this with the sender, who immediately recalled the message; all remaining Enterprise recipients confirmed they had deleted the email without reading it. CRC has briefed the Strategy Manager to remind them of the information sharing rules.

The BTCC also decided two issues which were trivial non-conformances with process:

- **CAO-40: Redcare directly contacting Openreach SOGEA team.** An agent in Enterprise supporting BT's Redcare alarm product was progressing a customer request linked to Openreach's SOGEA<sup>2</sup> service for a named Openreach engineer to access to a secure site. As a previous appointment had failed, the Enterprise agent used BT's internal directory and directly emailed an Openreach Field Team Agent. The BTCC agreed with BT's recommendation that, as the purpose of the contact was legitimate but the correct channel had not been used, this was a trivial non-conformance of BT's policy on using industry standard processes for contacting Openreach. As remedial action CRC has briefed the Enterprise agent on the correct routes to contact Openreach regarding specific customer issues, and is working with the Enterprise Partner Manager for Openreach to ensure they feed back product performance issues in the right way.
- **CAO-41: Incorrect Redcare user system access profile.** The team in Enterprise supporting Redcare are permitted to access the Openreach CSS system. To enable compliant access, Enterprise users have RCMs and must keep these up-to-date to retain system access. One Enterprise ignored multiple renewal reminders, and their CSS access permissions were revoked. Due to a lag between revocation and termination of access, CRC identified potentially non-compliant access to the CSS system. The Enterprise user incorrectly cited a team reorganisation as the basis for not renewing their RCM. As remedial action CRC briefed the user of their continuing compliance obligations to maintain their RCM if accessing CSS in support of Redcare.

<sup>2</sup> Openreach's Single Order Generic Ethernet Access product.

### 3. Summary of Guidance Note Updates

Guidance Note	Summary of Main Changes
<p><b>Background and introduction</b> DCR overview: key aims, GN design principles and definition of Customer, Supplier and Parent roles.</p>	<p>Minor editorial / visual consistency across GNs</p>
<p><b>GN 1 - EOI and Equal Treatment</b> High level description of EOI and Equal Treatment</p>	<p>Minor editorial / visual consistency across GNs</p>
<p><b>GN 2 – Trading</b> Key trading principles included in Commitments and Agency &amp; Services Agreement</p>	<p>Minor editorial / visual consistency across GNs</p>
<p><b>GN 3 - Strategy Development Process</b> Overview of annual BT process to refresh corporate strategy. GN sets out how Openreach inputs and interacts with Group.</p>	<ul style="list-style-type: none"> <li>• Significant updates to reflect changes in organisation (re-organisation of Strategy &amp; Transformation team), process and accountabilities</li> <li>• Substantial streamlining of process diagrams to simplify GN</li> <li>• Updated references to the BT Group Strategic Framework</li> <li>• Minor editorial / visual consistency across GNs</li> </ul>
<p><b>GN 4 – Financial Planning Processes</b> Overview of annual BT process to refresh annual Budget/Annual Operating Plan. GN sets out how Openreach inputs and interacts with Group</p>	<ul style="list-style-type: none"> <li>• Significant updates to simplify and reflect withdrawal of September forecast stage in the process</li> <li>• Minor editorial and visual consistency across GNs</li> </ul>
<p><b>GN 5 - Northern Ireland</b> Overview of how Openreach Northern Ireland operates in BT Group</p>	<ul style="list-style-type: none"> <li>• Multiple minor updates to reflect:                             <ul style="list-style-type: none"> <li>○ Current status of rebranding</li> <li>○ Management of core network in NI</li> <li>○ Tidying up of language on Wholesale account management of local CPs</li> <li>○ References to Openreach Limited instead of Openreach</li> </ul> </li> <li>• Visual consistency with other GNs</li> </ul>
<p><b>GN 6 - Regulatory, Policy and Legal Processes</b> How key processes and policies will be set for regulatory consultations, disputes, investigations and appeals</p>	<p>Minor editorial and visual consistency across GNs</p>
<p><b>GN 7 – Commercial Processes</b> Sets out governance and tests for when and how Openreach requires BT Group approval of a commercial case.</p>	<ul style="list-style-type: none"> <li>• Simplified decision tree on slide 13 to reflect that BT no longer has a separate General Counsel and Group Director Regulatory Affairs</li> <li>• Minor editorial and visual consistency across GNs</li> </ul>

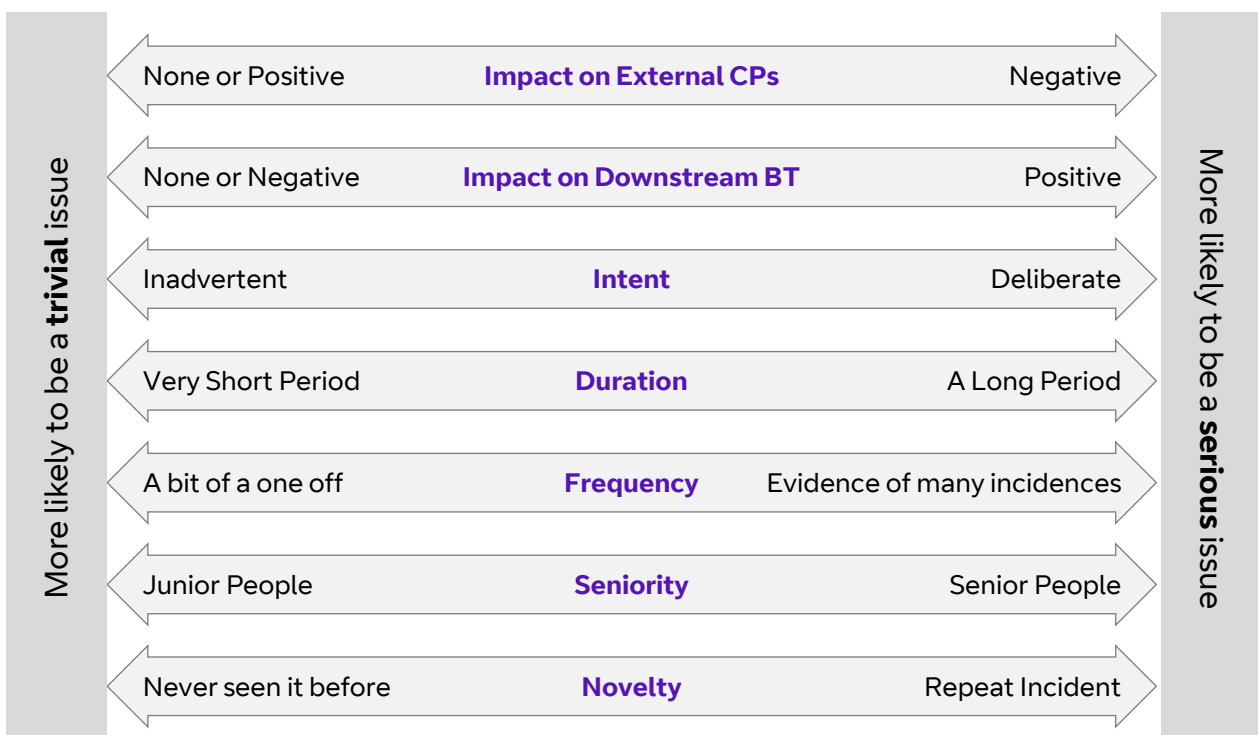
## 4. The BTCC’s Approach to Case Classification

### The “Four Box Model” to assess issues as Serious or Trivial

The BTCC adopted the framework below in September 2018 to classify the compliance matters referred to it for consideration. This framework was subsequently adopted by the Openreach Board Audit, Risk & Compliance Committee.

<p><b>Trivial Breach</b></p> <p>A breach of the letter of the Commitments, but not one that is likely to have caused any CP harm.</p> <p><i>e.g. Information sent in error to a person not entitled to see it, and then recovered before it was seen.</i></p>	<p><b>Serious Breach</b></p> <p>A breach of the letter of the Commitments that could well have caused harm.</p> <p><i>e.g. BT “interfering with/working on” the Openreach access or backhaul network.</i></p>
<p><b>Trivial Non-Conformance</b></p> <p>Not a breach of the letter of the Commitments, but individuals have not correctly followed processes, but no real harm done.</p> <p><i>e.g. An individual is entitled to see Openreach CI but forgets to turn on their supplier marker before receiving it.</i></p>	<p><b>Serious Non-Conformance</b></p> <p>Not a breach of the letter of the Commitments, but individuals have done something that is seriously wrong, where harm might be done, or where the actions are clearly not in the spirit of the Commitments.</p> <p><i>e.g. single individuals act contrary to guidance provided to them in the published Code of Practice.</i></p>

### The 7 Factor Case Seriousness Diagram





Offices worldwide

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Registered office: 81 Newgate Street, London EC1A 7AJ  
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