

14 September 2018



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Dear Mr Bowling

Deaf Access to Communication (DAC) is an umbrella organisation of national and regional organisations in the UK for deaf people with an interest in electronic communications. I am writing to seek clarification and guidance on an issue that is of concern to deaf people, the use of third parties in telephone calls and other transactions and the implications of this under the General Data Protection Regulation (GDPR).

Many profoundly deaf people are unable to make a voice telephone call and instead have to use a textphone. However, if the person or organisation that they are calling does not have textphone access the deaf person has to use the telephone relay service, Text Relay, to make the call. In a Text Relay call the relay operator listens to what the hearing person says and types it verbatim so that it appears as text on the deaf person's textphone. The deaf person can either type their reply on the textphone and the relay operator will voice what is typed to the hearing person, or the deaf person can speak directly to the hearing person if their speech is good enough and the equipment they are using allows this. Obviously a third party is involved in the call, but for many deaf people this is the only way they can make a telephone call at all. All Text Relay operators work to a strict code of confidentiality and no calls are ever recorded, so the service is completely secure and trustworthy.

Nonetheless, deaf users have found that some organisations - especially some financial institutions and insurance companies - refuse to accept Text Relay calls as they say that the use of a third party breaches the GDPR. Interestingly, although some financial institutions take that position others do not and are happy to take Text Relay calls and train their staff to receive them. We believe that those organisations who refuse to take Text Relay calls may be acting unlawfully under the Equality Act, and do not fully comprehend their legal obligations.

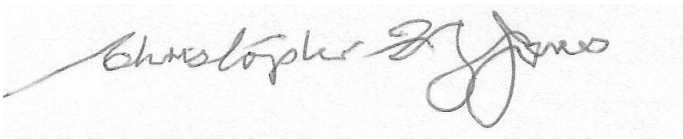
We understand that the use of a third party is allowed if the person has given prior permission and if the appropriate security questions can be answered, but we would regard the very fact that the person is making the call via Text Relay as constituting consent, since they are obviously aware that the call can only proceed with the involvement of a third party. Therefore organisations are wrong not to allow such calls. We would be grateful for your view of this matter as we feel that those organisations who refuse to take such calls are acting in a discriminatory manner under the Equality Act.

Cont/...

There is a further possible complication on which we would welcome your comments. The above has assumed that the deaf person has a command of English and can therefore either speak or type what they wish to say for themselves, so the only third party is the Text Relay operator who merely facilitates the exchange. However, some deaf people have British Sign Language (BSL) as their first language and may prefer to communicate in that language rather than in English. They may therefore use a sign language interpreter in much the same role as a Text Relay operator. They would sign what they wish to say, and the interpreter would be the actual person making the voice telephone call and speaking what the BSL user has signed. They would then listen to the hearing person's reply and sign that to the BSL user. Again, sign language interpreters work to strict codes of practice and confidentiality, but some organisations have refused to allow the interpreter to speak for the deaf person and insisted on talking to that person directly - which is obviously impossible, as they cannot hear and their speech might not be intelligible. We would welcome your views on how such situations should be dealt with under the GDPR.

We look forward to your reply.

Yours sincerely,

A handwritten signature in black ink that reads "Christopher Jones". The signature is fluid and cursive, with a long horizontal line extending from the start of the name.

Christopher Jones
Chair, Deaf Access to Communications (DAC)

A handwritten signature in black ink that reads "Craig Crowley". The signature is cursive and somewhat stylized, with a long horizontal line extending from the end.

Craig Crowley
Chair, UK Council on Deafness (UKCoD)