

**PROPOSED CHANGES TO THE RECYCLERS CODE OF BEST PRACTICE
FOR THE HANDLING OF MOBILE PHONES OFFERED FOR RECYCLING¹**

As at 10 March 2014

Clarification of Quarantine Process and Post Quarantine Process and Procedures

1. The Recycling Code of Best Practice has been in operation since adoption, in July 2010, by the Home Office, The Police, the Mobile Industry Crime Action Forum and 21 of the major Recycling Companies within the UK recycling Industry.
2. Overall it has been successful in identifying and preventing the recycling of mobile phones and other mobile devices which have previously been reported as not in the possession of a Legitimate User or person who has legal title to offer them for trade.
3. However, there have been cases where the status of a mobile device offered for trade has been incorrectly registered. This in turn has caused issues in respect to legal title of the device with the Recyclers, the Insurers, the Networks, the Police and, most importantly, the member of the public who genuinely has been offering for sale the device for which they have legal title, only to find the sale blocked as a result of administrative or procedural errors on the part of the Networks, Recyclers and/or Insurers.
4. In addition there has been a lack of clarity on the legal obligations placed on a person or organisation who is handling a device for which the legal title is challenged and how this influences the return of a device to the person/organisation who has or claims legal title. In particular in respect to charging/covering costs for the return of such an item to its legal owner as well as the circumstances under which legal title can be transferred.
5. In order to ensure that the Code, which governs the process of recycling ²of mobile handsets is fit for purpose and to reduce cases where disputes end up being legally challenged, it is necessary to clarify the existing process whereby mobile devices, which are subject of quarantine as a result of being “flagged” by a Compliant System³, are subsequently handled.
6. This revised Code of Practice is to be the subject of a review by participating members no later than 12 months after re-launch so as to ensure it is and remains practical and compliant.

¹ For the purpose of this code, recycling is defined as accepting for trade a mobile device for which payment or credit is given. This code does not apply to waste recycling activities for which separate WEEE Regulations apply.

² See 1 above

³ For the purpose of this Code a Compliant System is one which is able to indicate a device is no longer in the possession of its rightful owner by interrogating data sets as specified by ACPO and that make up the National Mobile Phone Register (NMPR) within the United Kingdom.

Extract from the Code of Practice

3. GUIDING PRINCIPLES

The following guiding principles provide the basis for the handling and processing of mobile phones and other mobile devices under this code of practice.

They are based on the need to ensure conformity of practice by Participating Members of the scheme as well as ensuring that the process and procedures are legally compliant. That is to say a standard of conformity that is sufficiently robust so as to provide a defence, against the charge of handling stolen goods and to be able to prove that reasonable precautions in the handling and processing of goods offered for recycling were exercised to avoid the commission of an offence under existing criminal or civil law.

It is also the aim of these principles to minimize the call on resources of member companies.

Under the Code of Best Practice any Participating Member must enter or cause to be entered a record, kept by them and made available for inspection, which shows:

- (a) The date and time of the transaction relating to the offer by a person or organisation of a mobile phone for recycling for which payment or some other form of credit is to be made;
- (b) A description sufficient to identify the mobile phone consisting of at least the International Mobile Equipment Identity Number (IMEI) and/or other such identifying numbers;
- (c) The name and address of the person/organisation who is offering the device for recycling in sufficient detail to identify the seller;
- (d) The date and time of checking of the IMEI or serial number against a Recognised Compliant System and the response received from the system showing the device's status;
- (e) An auditable process whereby any payment or credit to be made against any mobile device offered is recorded and handled in such a way as to be able to provide an Audit Trail in the event that the mobile device is subsequently found to be as not having been offered by a person or organisation who has legal title or is subsequently the subject of an insurance claim or crime report;

4. PROCESS WHERE A DEVICE RETURNS A QUARANTINE FLAG

When a Recognised Compliant System indicates that a mobile device, which is in the possession of the Participating Member, is to be placed into quarantine, this is to be taken as an indication that there are issues over who owns the device.

The Participating Member must ensure that subsequent handling is in accordance with the agreed set of procedures under which the code of practice operates. Namely:

- (a) The person/organisation who has offered the device for recycling is notified that:
 - (i) The mobile device has failed to qualify for trading due to not passing the diligence checks and therefore

is to be placed in Quarantine for a period of 28 days from the date of the notification.⁴

(ii) The person/organisation offering the device is to be informed to contact the Customer Service Desk of the operator of the Compliant System that has caused the quarantine to occur, and also be informed that they have 28 days, from the date of failure to qualify, to clear the issues that are causing the due diligence check to fail.⁵

(iii) In the case where a device has failed due diligence because it has been listed by a Police Service against a recognised Police reference number, the Police Service will be informed by the Compliant System of the trade and will then have 28 days, from the date of failure to qualify, to make contact with the Recycler to register an interest. Failure to contact the participating member company within this period will result in the device being disposed of and the loss of the device for evidential purposes.

(iv) In the case where a device has failed due diligence and is flagged as having been registered as having an interest by a participating insurance member, the insurance member and the Recycler are to be informed by the Compliant system and the arrangements that are contained in Annex A to this code are to be followed. Insurers who are not signed up to the code may make separate arrangements as appropriate.

5. PROCESS POST QUARANTINE PERIOD

If at the end of the 28 day quarantine period the device is **still in the possession of the Participating Recycler Member** the process for subsequent disposal of the device will be:

- (a) The Participating Member having made best efforts to establish who the legal owner of the device is and having not been able to identify an owner then the device can be disposed of in accordance with existing laws and torts for the disposal of such property.
- (b) The Member holding the goods may sell or dispose of them, by whatever manner is appropriate to the circumstances and
- (c) The Member disposing of the goods is able to pass good title to any purchaser, subject to existing laws and torts.

⁴ Irrespective of how the property is offered for sale there should be a set of terms and conditions which form the basis of a contract between the seller and the buyer. These T&C's should make it clear that any subsequent trade on the property being offered for sale is subject to a successful due diligence check and in the event that this check fails then the property may not be returned to the seller.

⁵ If the person offering the device is unable to have the block/Flag removed it can be assumed they do NOT have control of the account and are therefore not the authority who applied the block.

- (d) Where a device is claimed by the rightful owner⁶, the participating Recycler must be able to account for the proceeds of the sale or disposal of the device. He is entitled to withhold for himself any sum owing in respect of the goods, or 50% of the trade in price at the time of disposal.
- (e) Where a device is claimed by the Police or its rightful owner a charge can be raised by the Participating Member. This charge **MUST** reflect actual costs incurred for the return of the device to its rightful owner or Police Service and include an alternative arrangement for the device to be collected from the premises of the participating member.
- (f) **Information to assist in the investigation that is provided by a Member to an Appropriate Authority under Data Protection laws is to be treated in strictest confidence and should NOT be disclosed to 3rd parties without the express permission of the data controller of the National Mobile Police Register (NMPR) or the data controller of the Participating Member.⁷ This information should be as a minimum but not limited to Name and Address of Seller, IMEI of device, Date time of trade.**
- (g) Records kept by a Participating Member in pursuance of these principles shall be retained until the end of the period of six years beginning with the day on which the entry was made in the record.

Handling Of Low Value Items, Items Originating From Registered Charities or Educational Establishments

It has been agreed that, where the goods being offered by Registered Charities or Educational Establishments that are of a low end value, the level of checking via a Recognised Compliant System will be at the discretion of the Participating Member.

For the purposes of this Code the value associated with low end is up to £10 trade in value of a fully working device.

Handling and Processing of Handsets at Trade-In or at Retail Outlets for Cash

Whilst this code is designed for the handling of mobile phones via established Recyclers those organisations who operate either as a trade-in or exchange for cash should where appropriate have in place similar procedures and processes to ensure that they are not exposed to the handling of stolen goods⁸.

⁶ In this context, the “rightful owner” is a person who has legitimate title to the device and can produce evidence to establish that ownership.

⁷ Law enforcement agencies often obtain confidential details using the DPA. It would be an offence under the DPA 1998 to pass on personal details to a third party without the authority of the data controller of the supplying member.

⁸ In particular the identity and address of the seller **MUST** be established to a high level of integrity. Ideally transfer of ownership of the device should be part of the transaction so as to avoid any future manipulation of the network account by the Seller/Original owner.

SPECIAL ARRANGEMENTS FOR DEVICES IDENTIFIED AS HAVING RECYCLER/INSURER INTEREST

Clarification of Quarantine Process and Post Quarantine Process and Procedures For Devices Identified as having Recycler/Insurer Interest

- 1) The Recycling Code of Best Practice identifies a situation where a device that has been offered to a participating member for recycling has been flagged as having interest of an Insurer who is party to the Recycling Code of Best Practice.
- 2) In these circumstances the compliant system, that has identified the device as having an insurance interest, will notify the participating insurance member ⁱ that a device which they have previously registered an interest has been offered to a Recycler for recycling. At the same time the compliant system will register this interest with the Recycler.
- 3) The participating insurer member then has 28 days to register their interest directly with the Recycler member **after which if no interest is registered the device will be disposed of in accordance with the code of practice and subject to existing laws and torts.**
- 4) If the participating insurer member wishes to recover a device which has been quarantined by a recycler, they must contact the Recycler within 7 business days of notification by the compliant system and arrange for the device to be collected or returned.ⁱⁱ If the device is to be returned a charge of £30.00+VAT per device plus standard postal rate (unless collected) or 50% of the trade-in value of a working device, whichever is the lower, is to be paid by the insurer. In the event the Recycler is instructed by the Insurer member that an unblocked device is to be sold on then a remittance equivalent to the value of 50% of the trade-in price at the time of disposal is to be made to the insurer member
- 5) If the participating insurer does not recover a device within the quarantine period, the recycler will dispose of the device in accordance with the code of practice and subject to existing laws and torts.
- 6) Members who are signed up to the code of practice will, wherever possible, facilitate the free exchange of personal data to assist other members in the investigation of possible abuse of the recycling or insurance systems. This exchange may take place via the compliant system and where this is not possible the data should be requested in accordance with the Data Protection Act Sec 29.

ⁱ Only those Insurers who are signed up to the code of best practice will get such notifications automatically from the compliant system. Insurers who are not signed up to the scheme are free to negotiate and sign up for automatic notifications to be informed if and when any devices in which they have an insurance interest are processed by a Recycler and or the compliant system.

ⁱⁱ Existing terms and conditions of the chosen Compliant system may require agreement to send alerts to insurers (possibly others) who may not be members. In this case recyclers are free to negotiate with individual parties in regard to repatriation in Compliant with applicable laws.

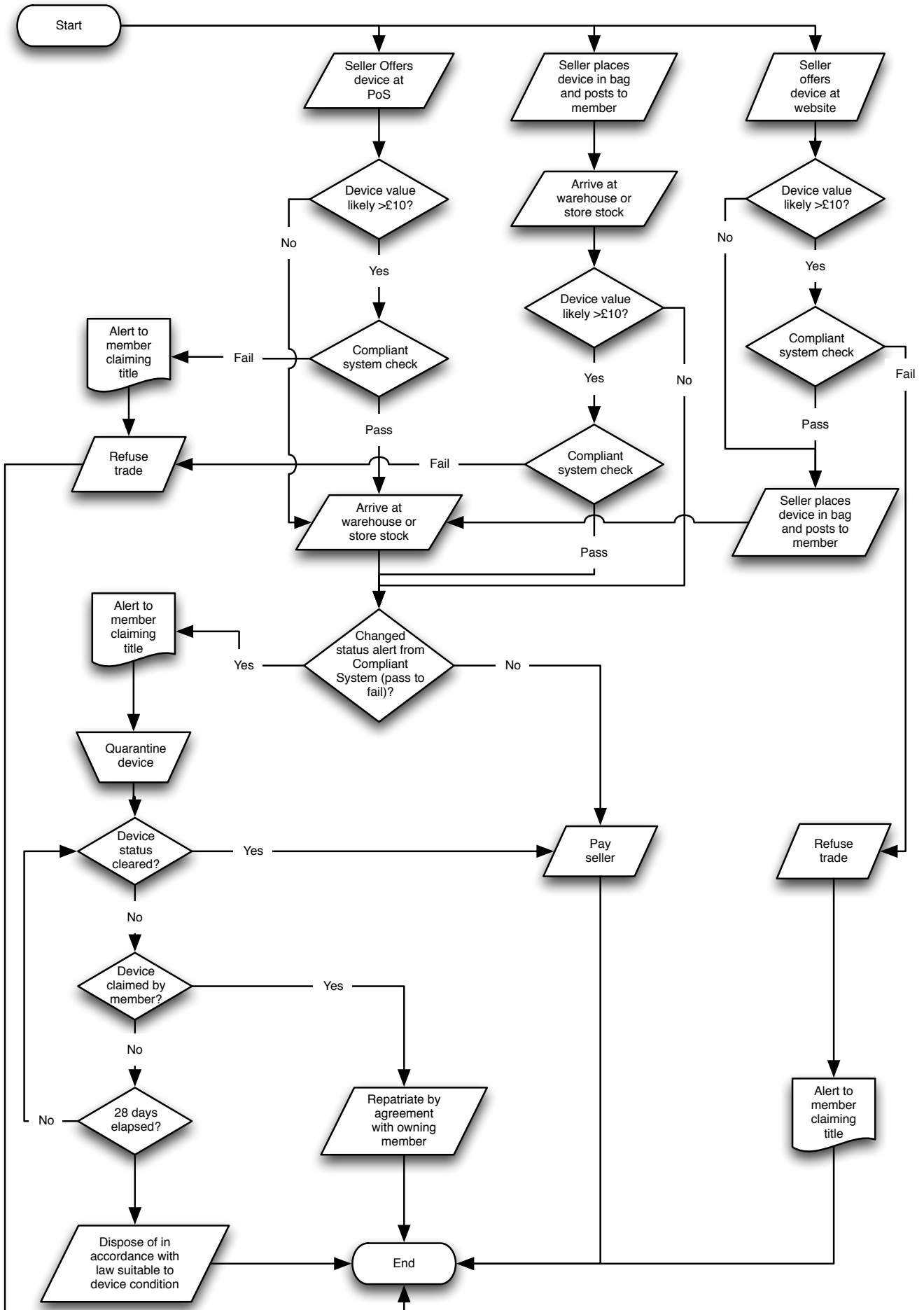
DEFINITIONS

Recognised Compliant System

In order to be effective any Compliant System used to support this Code of Practice must be capable of accessing and displaying sufficient data with supporting processes and procedures that are accredited and auditable. Any such system that a provider wishes to be considered for recognition must have, as a minimum, ALL of the following functions and capabilities:

- The operator of the compliant system must hold ISO9001:2008 and ISO27001:2005 certification from a UKAS accredited certification body. The Scope of certification must include the compliant system.
- Access to and the ability to upload and incorporate data feeds from at least 90% of UK Police forces that upload serial numbered crime data at least weekly
- Access to Data from all UK mobile phone networks on blocked handsets
- Access to data supplied by the UK Insurance industry members that upload claims data with relevant serial numbers of the claimed goods at least weekly
- Access to registered data from mobile phone owners which includes make, model and IMEI number and contact details, as well as offering the functionality for them to report their phone as lost or stolen to the stolen phone database: this should be a minimum dataset representing 10% of the UK population
- An automated system to inform the relevant police force single point of contact, telecommunications network, or insurer of any identified handset or device, plus a support service to assist customers and recyclers with any issue relating from the provision of this service
- The ability to reflect the data within the system to the Police via the National Mobile Phone/Property Register (NMPR)
- The ability for all use of the Compliant System to be recorded on the NMPR and fully auditable by Police bodies and the Home Office
- The ability to conduct searches against NMPR held data
- The ability to provide consolidated daily and weekly reports of handsets identified as registered with a crime reference to all UK Police forces Single Point of Contacts
- An historical database of all the above for a minimum of 5 years

Recyclers' Code of Best Practice - Process flow resulting from applying the code version 4.



RCD004 NMPR Feeds & Flows V2

