



TPS Assured Handbook

Information for audit
and certification



Contents page

- Section A - TPS Assured Scheme details** **2**
- 1. Summary 2
- 2. Background 3
- 3. TPS Assured benefits 3
- 4. Who can apply? 3
- 5. Non-Disclosure Agreement 4
- 6. Application process 4
- 7. Keeping up to date 4
- Section B - TPS Assured Audit process/conditions** **5**
- 1. TPS Assured audit process 5
- 2. Additional requirements 7
- Schedule 1** **8**
- The Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) PECR 8
- Schedule 2** **9**
- Ofcom: Policy on the persistent misuse of an electronic communications network or service (guidance on adherence with The Communications Act 2003) 9
- Schedule 3** **11**
- TPS Assured’s guidance on outbound telemarketing best practice 11
- Schedule 4** **13**
- Data submission specifications/guidance 13
- Schedule 5** **14**
- Application, audit and consultancy fees 14
- Schedule 6** **15**
- TPS Assured terms and conditions 15
- Schedule 7** **23**
- Use of TPS Assured Scheme Logo 23
- Document details** **24**
- Revisions 24
- Copyright 24

TPS Assured Scheme details

1. Summary

The Telephone Preference Service Ltd (TPS) has introduced the 'TPS Assured' service as part of its mandate to ensure that all organisations and call centres have access to expert advice and guidance on the rules and regulations governing telemarketing.

In respect of outbound telemarketing, TPS recognises that it can be difficult for even the most diligent organisation to understand its obligations. Each organisation is unique and uses outbound telemarketing in a variety of different ways to suit its specific business needs – this is further complicated by whether the telemarketing is automated, uses sales agents or is outsourced to a third-party call centre.

TPS Assured is an annual audit and certification service operated by the TPS that will assess whether UK organisations comply with:

- **The Privacy and Electronic Communications (EC Directive) 2003 (as amended) Regulations (PECR)**
- **Ofcom's Statement of Policy on the persistent misuse of an electronic communications network or electronic communications service**
- **TPS Assured's guidance on outbound telemarketing best practice**

in respect of any telemarketing activity targeted at UK consumers which it carries on its own account or uses a third-party outsourced call centre (whether based in the UK or overseas).

In summary, the audit will not only review whether you have the relevant processes, policies and procedures in place but will also review the contracts and management controls you have in place with any service suppliers undertaking outbound telemarketing on your behalf. Irrespective of whether the telemarketing is undertaken in-house or outsourced, it will examine recent call history logs to determine whether any breaches of the above regulation, rules and guidance have occurred.

With recent penalty notices and fines from the Information Commissioner's Office (ICO)/Ofcom running into hundreds of thousands of pounds there has never been a more important time to ensure your organisation is fully compliant with current telemarketing laws and regulations.

Organisations that successfully meet the audit criteria will be awarded 'TPS Assured' status via certification and have permission to use the 'TPS Assured' logo on their literature and website.

The costs for the scheme are contained in Schedule 5 of this handbook.

TPS Assured is a scheme of 'The Telephone Preference Service (Advisory Services) Ltd, a subsidiary of The Telephone Preference Service Ltd. Both companies are wholly owned by the DMA (UK) Ltd.

2. Background

Whether it is sales, appointment setting, lead generation, data collection or retention campaigns, outbound telemarketing calls are an essential part of doing business for many UK organisations.

However, the telemarketing industry is under increasing pressure from regulators. Over recent years there has been a significant consumer backlash and negative articles in the press against cold calls, silent calls, illegal lead generation and overseas scams.

As a consequence The Telephone Preference Service has introduced TPS Assured to enable organisations that follow the rules and respect consumer choice, to differentiate themselves from those organisations without this certification.

So TPS Assured is designed to provide independent and authoritative recognition of organisations that have robust compliance processes, policies and procedures in place to abide by legal requirements and rules and best practice as laid down by The Direct Marketing Association (UK) Ltd and other industry bodies.

By showing the TPS Assured logo an organisation can demonstrate that it has been audited and can prove it is doing all that is possible to ensure that its telemarketing activities are undertaken responsibly and in a professional manner that treats customers and potential customers with respect and observes their wishes.

3. TPS Assured benefits

TPS Assured provides a range of important benefits:

- TPS Assured can help provide reassurance to your compliance and legal functions that your organisation is taking all reasonable steps to achieve compliance for both direct and outsourced telemarketing activity.
- External checking and validation of your compliance regime will help minimise the risk of penalty notices/ fines and citations by Ofcom and ICO for a breach of legal requirements.
- It helps avoid adverse publicity and the risk of reputational damage that often carries serious, far-reaching consequences.
- It provides consumers with confidence that your telemarketing practices have been independently assessed by an authoritative body and are based on sound and ethical principles which treat consumers with respect, observe their wishes and correctly manage their personal information and preferences.
- TPS Assured provides certificated organisations with up-to-date news and advice on any changes that may affect their compliance management.
- TPS Assured can also provide additional consultancy services so that you can receive up to date advice on whether proposed processes or campaigns are compliant.

4. Who can apply?

UK based 'end-user' organisations that use outbound telemarketing to UK consumers as part of their own business activities.

If your organisation is undertaking Claims Management Sector (CMS) work, including generating or validating leads for the CMS sector, then you must be registered with the Claims Management Regulator, part of the Ministry of Justice (MoJ) as an authorised person.

Organisations that are either a head of a group or a subsidiary of a group must specify the scope of their application at the time of application.

Application forms can be found at www.tpsassured.co.uk

5. Non-Disclosure Agreement

You can be reassured that all information shared with TPS Assured will be kept strictly confidential.

As part of the application process and prior to any audit, both parties will sign a Non-Disclosure Agreement (NDA) which prevents any disclosure of confidential information belonging to your organisation or TPS Assured to any organisation other than listed consultancies and specialists providing TPS Assured audit services or where the disclosure is required under legislation or a court order.

6. Application process

Please follow the steps below should you wish to apply for TPS Assured certification:

- Read the audit scope (see Schedules 1, 2 and 3 of this handbook) and understand the criteria that you would need to satisfy to achieve TPS Assured status.
- Make sure you read and understand the TPS Assured terms and conditions (see Schedule 6 of this handbook)
- Check to ensure that you have undertaken outbound telemarketing activity in the three months prior to your application to enable TPS Assured Auditors to review your call history logs and check for compliance with the TPS Assured standard.
Organisations with low call volumes or that have seasonal outbound campaigns should first check with the TPS Scheme Administrator to check that an application would be acceptable.
- Download and complete the application form www.tpsassured.co.uk
- Enclose the completed application form and post to:
Compliance Team, TPS Assured, Telephone Preference Service, 70 Margaret Street, London W1W 8SS
or email tpsassured@dma.org.uk
- Based on the information contained in your application form, TPS Assured will provide you with a quotation to undertake the audit. The audit costs contained in Schedule 5 are for a standard single site audit. Additional audit costs will be charged for applicants that require multi-site audits.

Once you have accepted the quotation the path to TPS Assured certification begins.

7. Keeping up to date

The legal rules, regulations and best practice requirements governing telemarketing activity are subject to change and consequently the audit scope of TPS Assured may need to reflect any changes that are introduced.

Organisations are advised to check that their handbook version is up to date at www.tpsassured.co.uk

Section B

TPS Assured Audit process/conditions

1. TPS Assured audit process

a. Preparation/audit scope

Each organisation will need to prepare for initial and renewal audits by reviewing the rules, regulations and best practice regulations that are included within the scope of the TPS Assured audit (note that this scope may need to be updated to reflect changes to the law).

Current scope of the TPS Assured audit includes:

- The Privacy and Electronic Communications (EC Directive) 2003 (as amended) regulations (PECR) (See Schedule 1)
- Ofcom's statement of policy on the persistent misuse of an electronics communications network or service (as revised) (See Schedule 2)
- TPS Assured's guidance on outbound telemarketing best practice (See Schedule 3)

b. Application process

Based on the information provided in your application documents, the TPS Assured Scheme Administrator will issue your organisation with the following documentation:

- Quotation for the cost of the audit services and an accompanying acceptance form which requires signature and return
- Invoice for the application fee which will require immediate payment
- Invoice for the audit costs which will require payment once the audit has been completed.
- Non-Disclosure Agreement (NDA) for counter signature and return
- Specification for the extract and submission of your Organisation's call history logs relating to selected campaign activity listed in your application document (see c below)
- Advice and guidance on the information you will need to prepare prior to the audit. This will include
 - a step-by-step guide to each audit question and the type of specific evidence required
 - a guide to the additional internal documentation required eg call suppression processes, permissioning, outsourcing contracts, complaints, compliance and data security

c. Call history logs

Prior to the site audit, you will also need to provide TPS Assured with your call history logs (and/or those of your supplier if applicable) via a secure SFTP site.

The call history logs must include all outbound telemarketing activity for a continuous three-month period with a start date of no later than 16 weeks from the application date.

This will provide TPS Assured Auditors with the opportunity to review the call history logs and check for evidence of compliance / non-compliance with the TPS Assured standard.

Compliance checks will include levels of abandoned calls, levels of repeat calls to specific numbers in a 24-hour period, rogue agent behaviour and percentage of silent calls.

The auditors will also conduct on-site compliance checks of your call history logs which may require access to individual consumer records.

Please note that should your call history logs be found to be non-compliant the TPS Auditor will provide detailed feedback on any areas of non-compliance. In these circumstances you will be issued with a fail notification. As a consequence the site audit will not take place but you will still be liable to pay the full audit fee.

(Further details of data submission specifications, procedures and compliance check advice/details are contained in Schedule 4 of this handbook)

d. Initial audit

Once 'pre-audit information' and call history logs have been received, the Scheme Administrator and Organisation will agree a mutually convenient date for the site audit(s).

During the site visit the TPS Assured Auditor will review and discuss submitted questionnaires, declarations and call history logs and may also seek additional documentation and clarification.

The site audit will take place with the Organisation's nominated representatives for telephony compliance management and best practice.

The site visit also provides each applicant with an opportunity to obtain specific guidance and support on any of their existing or proposed telemarketing activities.

If the Organisation outsources its outbound telemarketing to an external call centre the audit will take place at the site(s) where the call centre provides the service. In these circumstances the TPS Assured Auditor will undertake a joint review with representatives from both the Organisation and the external call centre.

A separate site visit will be required for each call centre location used by the Organisation. This could be either internal call centres, outsourced call centres or a mixture of both. Each call centre will need to satisfy the TPS Assured scheme criteria for certification to be awarded to an Organisation.

If the TPS Assured Auditor establishes that there are a number of minor non-conformities, you will be required to give an undertaking to resolve these within a specific timescale. The timescale will be determined by the TPS Assured Auditor based on the individual circumstances.

e. Renewal audits

In most cases renewal audits will be undertaken by a TPS Assured Auditor via desk audits and telephone interviews.

Organisations that have either:

- been subject to significant organisational change which may have affected its telephony compliance management
- changed their call centre software/associated technology,
- made changes to their outsourcing arrangements
- made substantive changes to the location or infrastructure of their internal call centre(s)
- have breached or are under investigation for a breach of Schedule 1, 2 or 3 of this handbook

would be required to undergo a renewal site audit and incur the initial site audit costs (see Schedule 5 of this handbook)

f. Audit results

The TPS Assured Auditor will submit a report and recommendation to the TPS Assured Scheme Administrator covering the applicant's compliance or non-compliance with TPS Assured standards.

You will be informed in writing of whether or not your organisation has been awarded TPS Assured certified status.

Successful applicants will be issued with a pass notification, TPS Assured certification, scheme logo and guidelines on use of the scheme logo.

Unsuccessful applicants may reapply no sooner than six months after the date of the fail notification.

2. Additional requirements

a. TPS complaints/breaches

Any complaints received from consumers registered with the TPS in respect of TPS Assured certified organisations would require the organisation to fully comply with TPS standards for complaint handling.

Any certified organisation which was found to be in breach of PECR laws, Ofcom Guidance and/or TPS Assured guidance on outbound telemarketing best practice (see Schedule 1, 2 & 3 of this handbook) by the Information Commissioner, Ofcom, DMA or any other regulatory body may have its certification suspended and be required to take immediate remedial action as determined by the TPS Assured Auditor. Failure to comply would lead to the withdrawal of the certification.

Schedule 1

The Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) PECR

The following is a summary of the requirements of these regulations, which your organisation must demonstrate compliance with in order to be awarded TPS Assured certification.

1. Clean telephone data against the TPS register no more than 28 days before making unsolicited sales and marketing calls.
2. If third-party permission to make unsolicited sales and marketing calls is in place, provide evidence that your organisation was named as the third party that will be calling, such as generic copies of data capture forms/telephone scripts from the first-party organisation which collected the data, or clean the data against the TPS register no more than 28 days before calling.
3. If you are making sales or marketing calls to numbers that have been registered on the TPS file for 28 days or more, demonstrate that you have the call recipients' permission to make such calls by providing specific data capture forms or call recordings which show that the call recipient has consented to receive such calls.
4. Maintain an in-house suppression/do not call file containing the telephone numbers of individuals who have requested that your organisation does not make unsolicited sales and marketing calls to them, even if their telephone number is not registered on the TPS.
5. Clean telephone data against your in-house suppression/do not call file before making any unsolicited sales and marketing calls.
6. If using an automated calling system to make sales or marketing calls via recorded message, demonstrate that you have call recipients' permission to make such calls by providing the specific data capture form or other evidence which shows that the call recipient has consented to receive such calls..
7. Ensure that call recipients are provided at the time of the call with the name of the organisation on whose behalf you are calling. On request, provide either a business address or a freephone number via which this organisation can be contacted.

Schedule 2

Ofcom: Policy on the persistent misuse of an electronic communications network or service (guidance on adherence with The Communications Act 2003)

Ofcom defines 'misuse' of an electronic communications network or service as use that causes (or is likely to cause) persons "unnecessarily to suffer annoyance, inconvenience or anxiety". Using the network or service to "engage in conduct" that is likely to have such an effect is also defined as 'misuse'.

In order to be persistent, the misuse must represent a pattern of behaviour or practice ("likely to require a minimum of three instances"), or demonstrate recklessness. This could include continuing with behaviour when knowing or having been informed of its effect or likely effect; or failing to take "reasonable steps" to establish the likelihood of its causing annoyance, inconvenience or anxiety.

The following is a summary of the requirements of Ofcom's statement on the persistent misuse of an electronic communications network or service, which your organisation must demonstrate compliance with in order to be awarded TPS Assured certification.

1. Use the Ofcom method for calculating the abandoned rate.
2. Where an abandoned call is made, play a brief recorded information message no later than 2 seconds after the call has been picked up, or no more than 2 seconds after the individual begins to speak (as applicable to the technology being used).
3. Ensure that this message details the identity of the organisation on whose behalf the call was made, a telephone number that the individual can contact to opt out of further marketing calls.
4. Ensure that the contact number given in this message is either freephone, lo-call rate (0845), a geographic number (01/02) or a UK-wide number at a geographic rate (03).
5. Ensure that this message is not used as a marketing opportunity.
6. Keep dialler and other relevant statistics for a minimum of six months.
7. If a call is abandoned, ensure that the number is not called again for another 72 hours, unless it is guaranteed that there is an operator available to take the call.
8. If a call is identified by Answer Machine Detect (AMD) as being answered by an answering machine, ensure that the number is not called again for another 24 hours, unless it is guaranteed that there is an operator available to take the call.
9. Maintain results of any live sampling or scenario testing undertaken when calculating AMD false positive rates, showing how they were factored in to abandoned call rates.
10. Show that testing was undertaken on different, representative times of day and days of the week, as well as on a per-campaign basis.
11. If the dialler is upgraded or dialling patterns are reconfigured, or other material changes are made to the AMD, show that testing was carried out again.
12. If using AMD, always use an Ofcom method of calculating false positive rates and factoring them in to your abandoned call rates.
13. Ensure that abandoned call rates are kept below a maximum of 3% of live calls, per campaign or per call centre, over any 24-hour period.

14. Keep records for at least six months showing that the abandoned rate of calls remains below this.
15. Calls that are not answered must ring for a minimum of 15 seconds before being terminated. Keep records showing calls are allowed to ring for 15+ seconds before termination.
16. Always ensure that a Caller Line Identification (CLI) number is presented for outbound calls.
17. If a call to a UK individual is being made from overseas, the words 'International' may be used in place of a CLI number where technological limits prevent the presentation of a CLI number.
18. Show that the CLI number that is presented for outbound calls can (a) receive return calls, and (b) is either a geographic number (01/02/03) or a non-geographic number adopted as a presentation number.
19. Do not engage in number-scanning ('pinging').
20. Do not engage in fax-scanning.
21. Do not present inauthentic or misleading CLI numbers. Do not send CLI numbers from which it is not possible for the individual to identify the caller and / or return the call.
22. Do not present CLI numbers that are allocated as premium rate or revenue sharing numbers.

Schedule 3

TPS Assured's guidance on outbound telemarketing best practice

1. At the beginning of the call volunteer the name of the advertiser/the organisation on whose behalf the call is being made, and repeat this information on request.
2. If requested, give the full contact details of the advertiser/organisation on whose behalf the call is being made.
3. If you are making a sales or marketing call on behalf of another organisation, on request you must disclose your own organisation's name, address and telephone number.
4. You must clearly state at the beginning of the conversation all commercial purposes of the call and must restrict the content of the call to matters directly relevant to these purposes.
5. When undertaking outbound calls, you must provide a free or low-cost valid Caller Line Identification (CLI) number to which a return call may be made.
6. You must maintain a verification process for regulation, compliance and best practice standards. The verification process must cover the processes that are necessary for compliance and the records needed to demonstrate compliance.
7. Quality assurance procedures and measures must be created to monitor compliance at the start of each campaign. The records kept should include:
 - Dialler compliance reports
 - Copy of agent script for campaign
 - Campaign execution rules, eg dialling times, retry counts, abandoned call message handling etc
 - Do not call (DNC) in-house suppression list management processes
 - Complaints
8. Contact centres that undertake outbound calling activity must have a written complaints policy. As a minimum the following information should be collected:
 - Date of complaint
 - Date complaint settled
 - Reason for complaint
 - Outcome
 - Whether complaint was escalated
 - Tracking back to agent/campaign
 - Handled within service level agreement
9. Complaints that need further investigation must receive an acknowledgement communication and details of the organisation's complaints procedure with a timeline to manage the customer's expectations.
10. If the complaint cannot be settled within a seven-day period, the person who made the complaint should be contacted to be advised of the reason for the delay with a timeline by which it is expected that the complaint will be resolved.

11. The minimum information each complainant should receive is:
 - Name of contact person handling complaint
 - Telephone number to contact person handling complaint
 - Details of when the investigation should be completed
 - Organisation's complaints procedure
12. In the event of a customer remaining dissatisfied, they must be advised of the organisation's escalation procedure.
13. Staff must be trained in the requirements of the TPS and how to respond to call recipients who say that they are registered on the TPS.
14. Ensure that you undertake due diligence checks on any data that you source from a third party. This means making sure you know a) the source of the data, b) that you have checked how the data was collected by reviewing generic copies of the data collection notices/telephone scripts used by the organisation which originally collected the data so that you can determine that your organisation has the correct permissions to contact by telephone (it is not sufficient to rely on contractual warranties or other assurances) and c) whether or not it has been screened against TPS.
15. Pass any opt-out requests or data correction details to the third-party that you sourced the data from, in order to assist them in keeping the data accurate and up to date.
16. If call recipients ask where you got their data from, you must tell them. This requires that agents know the data source.
17. Your organisation must have a data security policy that sets out how you ensure that personal information is treated fairly, lawfully and correctly, and is in compliance with the requirements of the Data Protection Act 1998 (DPA).
18. All files containing personal data should be password protected and no-one should have access to personal data unless they are directly involved in the process of its preparation or use.
19. Your organisation should appoint a designated person or persons who are aware of, and responsible for, its compliance with the DPA and PECR relating to the security of personal data, in connection with its telemarketing activities.
20. Only make sales or marketing within the hours of Monday to Friday 8am to 9pm and at weekends between 9am and 9pm unless an express invitation to do so has been received.
21. Avoid calling consumers on public/national/religious holidays.
22. Where the dialling result of an outbound call attempt is no answer or answerphone, the maximum number of dial attempts in a single day should be limited to 3 for any individual customer telephone number and account.
23. The following minimum redial intervals are recommended:

Busy	10 minutes
Number unobtainable	120 minutes
No answer	120 minutes
Answerphone	120 minutes

Schedule 4

Data submission specifications/guidance

On receipt of the campaign information contained in the Application Document, the Scheme Administrator will request that the Organisation provide full call history logs for specific campaigns over specific periods for each internal/outsourced call centre site used.

Prior to application, the Organisation may wish to ensure that it can output and send the specified data within three working days of receiving the request from TPS Assured. This may need to include arranging outputs from external call centre suppliers.

The data request will include all outbound call history logs.

As a minimum, the detail of each call should include the following information:

- Campaign name
- List/data source
- Date/time call started
- Call duration
- Dial time
- Talk time
- Agent name/ID
- Number dialled
- CLI presented
- Call outcome/disposition

Transfer method: SFTP

File Type: CSV file (quote delimited, comma separated) including header record

Schedule 5

Application, audit and consultancy fees

Application fees

Application fees of £500 plus VAT are charged for both initial and subsequent annual renewal audits on acceptance of the audit quotation. Application fees are non-refundable.

Audit fees

Initial site audit

Based on the information contained in your application form, TPS Assured will provide you with a quotation to undertake the TPS Assured audit.

As a general guide, the cost for a standard single site audit is £4,000 plus VAT per site assessed.

Additional audit costs will be quoted/charged for multi-site audits or where the size or complexity of the organisation's telemarketing activity requires more than a standard day audit.

Organisations that require more than one site audit to achieve certification will be provided with a discounted multi-site quotation

Organisations that outsource their outbound telemarketing to overseas call centres will be additionally quoted/charged for the extra costs for a TPS Auditor to undertake site visit(s).

Renewal audits

These are typically desk/telephone based and cost £1,500 plus VAT per site assessed.

Note that in some circumstances (typically following a breach of the TPS Assured Scheme Assessment Criteria) a renewal audit may need to include a site audit (see Initial site audit costs above)

Additional consultancy

Day rate for TPS Assured Auditor consultancy services is £900 plus VAT per day plus out of pocket expenses

Schedule 6

TPS Assured terms and conditions

Definitions

In these terms and conditions the following words and phrases shall have the meaning as set out below:

1. The 'Assessment Criteria' shall mean the assessment criteria listed in Schedule 1, 2 and 3 of the TPS Assured Handbook.
2. The 'Organisation' shall mean the organisation that submits the application or renewal application to be certified to the TPS Assured Scheme.
3. The 'Scheme Administrator' shall mean the Compliance Department of The Telephone Preference Service (Advisory Services) Ltd or such other organisation appointed as the Scheme Administrator acting in its capacity as administrator for the TPS Assured Scheme.
4. The 'Application Document' shall mean a completed TPS Assured application form submitted by the organisation at the time of submitting an initial or renewal application to the Scheme Administrator.
5. The 'Application Fee' shall mean the fee paid by the Organisation following the submission of an application form to the Scheme Administrator and the acceptance by the Organisation of the TPS Assured quotation for audit fees.
6. The 'TPS Assured Scheme' shall mean the outbound telemarketing audit and certification service developed by The Telephone Preference Service (Advisory Services) Ltd.
7. The 'TPS Assured Auditor' shall mean auditors employed by TPS Assured or any third-party organisation appointed by TPS Assured to provide audit services.
8. The 'TPS Assured Certificate of Compliance' shall mean a certificate valid for one year issued by TPS Assured to an organisation that has been audited and has been found to be compliant with the Assessment Criteria.
9. The 'Pass Notification' shall mean a written communication from the Scheme Administrator to inform an organisation that it has met the Assessment Criteria and will be awarded a TPS Assured Certificate of Compliance.
10. The 'Fail Notification' shall mean a written communication from the Scheme Administrator to inform an organisation that it has not met the Assessment Criteria and will not be awarded a TPS Assured Certificate of Compliance
11. 'End User' means a UK-based organisation that uses outbound telemarketing as part of their business activities. Suppliers that provide outsourced call centre services are not End Users and therefore will not obtain a TPS Assured Certificate of Compliance as a result of participating with a TPS Assured Audit at the request of an Organisation.
12. 'Audit Fee' means the fee payable by the Organisation to the Scheme Administrator for the initial or renewal audit in accordance with clause 20 of these Terms and Conditions
13. 'Scheme Logo' means the logo relating to the TPS Assured Scheme as set out in Schedule 7
14. 'PECR Regulations' means The Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended)
15. 'TPS Assured Handbook' means the handbook relating to the TPS Assured Scheme as revised by the Scheme Administrator from time to time.

Submission of application

1. The Organisation applying for the TPS Assured Scheme confirms that before submitting an Application Document it has read and understood the Assessment Criteria for the TPS Assured Scheme applicable at the time.
2. The Organisation applying for the TPS Assured Scheme confirms that before submitting an Application Document it has checked that it has undertaken outbound telemarketing activity in the three months prior to the application to enable TPS Assured auditors to review call history logs and check for compliance with the TPS Assured standard.
3. A completed and accurate Application Document and attachments must be submitted to the TPS Assured Scheme Administrator.
4. Upon receipt of the Application Document the Scheme Administrator will validate that the Organisation is an End-User and thereafter issue the Organisation with an audit quotation and acceptance form, application fee and audit fee invoices, a copy of the Non-Disclosure Agreement for signing and return, the specification for the submission of the Organisation's call history logs and guidance on the information it will need to prepare prior to the audit.
5. The Organisation accepts that the Application Fee is non-refundable.
6. The Organisation accepts that the TPS Assured site audit cannot take place until all information has been supplied and the Scheme Administrator is satisfied that the information supplied meets the requirements of the scheme.
7. The Organisation agrees to allow the TPS Assured Auditor to access any complaint information held by TPS about the Organisation and any other organisation in the same group. Access to this information is for the sole purpose of enabling the TPS Assured Auditor to identify any potential compliance issues with the Assessment Criteria.

Pre-audit

8. The Organisation accepts that the Scheme Administrator may use both TPS Assured Auditors and external consultancies and specialists to review pre-audit questionnaires and call history logs, and conduct site audits.
9. The Organisation accepts that should the call history logs be found to be non-compliant the Organisation will be issued with a Fail Notification and be required to pay the full Audit Fee.
10. Once pre-audit questionnaires and call history logs have been supplied and satisfactorily reviewed, the Scheme Administrator will appoint a TPS Assured Auditor and make arrangements for the date(s) of the site audit.
11. The Scheme Administrator will determine the location of the site audit and number of site audits based on the information contained in the Application Document – this will relate to whether the Organisation undertakes outbound telemarketing on its own account or outsources this activity to one or more call centres.
12. The Organisation accepts that if it outsources its outbound telemarketing to an external call centre the audit will take place at the site(s) where the call centre provides the service. In these circumstances the TPS Assured Auditor will undertake a joint review with representatives from both the Organisation and the external call centre.

Multi-sites

13. Where an Organisation uses more than one call centre (either/or internal or outsourced) for its outbound telemarketing:
 - Call history logs may need to be submitted for each call centre
 - A separate site audit will be required for each call centre
 - Each site audit will be subject to payment of an initial site or renewal audit fee (see Schedule 5 of the TPS Assured Handbook)
 - Each site will be separately assessed for compliance
 - All call centre sites used by the Organisation will need to meet the Assessment Criteria for the Organisation to be awarded a TPS Assured Certificate of Compliance.

Certification

14. The TPS Assured Auditor will undertake site visit(s) to discuss submitted application documentation, declarations and call history logs and may also seek additional documentation and clarification to determine whether the Organisation complies with the Assessment Criteria.
15. The TPS Assured Auditor shall submit to the Scheme Administrator a report covering the Organisation's compliance or non-compliance with the Assessment Criteria.
16. If the TPS Assured Auditor identifies that the Organisation has a number of minor non-conformities with regard to the Assessment Criteria, the Scheme Administrator will request a separate undertaking from the Organisation that the non-conformities will be corrected within specified timescales. TPS Assured reserves the right to withhold issuing a Pass Notification until such time as the Organisation confirms and the TPS Assured Scheme Administrator accepts that corrective action has been taken in respect of minor non-conformities.
17. The Organisation accepts that if, in the opinion of the TPS Assured Auditor, the number and type of minor non-conformities are sufficient to warrant the issue of neither a Pass Notification nor a Fail Notification, the Scheme Administrator will request nominated representatives of the TPS Board to make a final decision on whether or not to issue a Pass Notification or a Fail Notification.
18. On receipt of the audit report or the nominated representatives of the Telephone Preference Service (Advisory Services) Ltd's Board decision, the Scheme Administrator will communicate the TPS Assured Auditor's decision by either issuing the Organisation with a Pass Notification and TPS Assured Certificate of Compliance or a Fail Notification.
19. The Organisation's annual period of certification will be determined by the Scheme Administrator.

Audit Fees

20. Once the TPS Assured audit has been undertaken, the Organisation agrees to pay the agreed audit fee invoice within the specified time period irrespective of whether the audit results in a Pass or Fail notification.

Reapplication following a Fail Notification

21. Following a Fail Notification, the Organisation may wish to re-apply after six months have elapsed from the date of the Fail Notification. A reapplication would incur the standard Application/Audit Fees and follow the procedure as listed in clauses 1-13 of these Terms and Conditions.

Use of logo/publicity and promotion

22. The Scheme Logo may be used by the Organisation holding a current and valid TPS Assured Certificate of Compliance in accordance with Schedule 7 of the TPS Assured Handbook
23. The Scheme Logo must not be used on products or packaging or in any way that implies endorsement by TPS or TPS Assured.
24. In order to maintain the integrity of the TPS Assured Scheme, the Organisation agrees not to make any misleading statements concerning the Application Document or TPS Assured Certificate of Compliance to any third party or within its own marketing communications (whether used for internal or external purposes), and it will use its best endeavours to ensure that no-one connected with it gives any such misleading impression.

Withdrawal/Suspension of TPS Assured Certificate of Compliance

25. The Scheme Administrator may decide to terminate or suspend at its discretion the TPS Assured Certificate of Compliance of the Organisation with immediate effect if any of the following events occur:
 - The Organisation has been subject to substantive complaints from TPS registrants that leads the Telephone Preference Service Ltd. Executive to inform the TPS Assured Scheme Administrator that the Organisation has, or may have, breached the PECR Regulations (see Schedule 1 of the TPS Assured Handbook)
 - The Organisation has been fined or adjudicated against by Ofcom/ICO/DMA or any other regulatory bodies for breaching any part of Schedules 1, 2 or 3 of the TPS Assured Handbook.
 - The Organisation is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986) or becomes insolvent or an order should be made or a resolution passed for the liquidation, administration, winding up or dissolution of the Organisation (other than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer should be appointed over all or any substantial part of the assets of the Organisation, or the Organisation should enter into or propose any composition or arrangement with its creditors generally or anything analogous to the foregoing shall occur in any applicable jurisdiction.
 - The Organisation submits an Application Document for the purposes of a renewal but, through reasons entirely attributable to the Organisation, the audit date is unable to be set before the expiry date of the previous TPS Assured Certificate of Compliance
 - The Organisation ceases or threatens to cease to carry on its business or substantially the whole of its business or disposes of its undertaking or part thereof
 - The Organisation does not remedy any non-compliance in timely manner in accordance with clauses 16-18 of these Terms and Conditions

Consequences of suspension of TPS Assured Certificate of Compliance

26. In the event that the Scheme Administrator suspends the Organisation's TPS Assured Certificate of Compliance in accordance with clause 25 of these Terms and Conditions, the Organisation may be required to undergo special audit visits by the TPS Assured Auditor to determine that the Organisation has put in place policies and procedures to ensure that it is compliant with the Assessment Criteria.

The location, duration and frequency of special audit visits shall be determined by the Scheme Administrator and will be quoted/charged as per Schedule 5 of the TPS Assured Handbook.

Termination of TPS Assured Certificate of Compliance

27. Either party may terminate the TPS Assured Certificate of Compliance immediately by notice in writing to the other:
 - if the other party is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or becomes insolvent or an order should be made or a resolution passed for the liquidation, administration, winding up or dissolution of the Organisation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer should be appointed over all or any substantial part of the assets of the other party, or the other party should enter into or propose any composition or arrangement with its creditors generally or anything analogous to the foregoing shall occur in any applicable jurisdiction.
 - Without cause by giving 90 calendar days' notice in writing to the other.
28. The Scheme Administrator may terminate the TPS Assured Certificate of Compliance immediately by notice in writing if:
 - The Organisation commits any material breach of these Terms and Conditions which is capable of remedy and fails to remedy the same within 60 calendar days of notice from the other party requiring such remedy
 - The Organisation commits any material and irremediable breach of the Terms and Conditions or repeats any such breach, as has previously been the subject of a notice under this clause 28 of these Terms and Conditions
 - The Organisation ceases or threatens to cease to carry on its business or substantially the whole of its business or disposes of its undertaking or part thereof
 - The Scheme Administrator has suspended the TPS Assured Certificate of Compliance for a period of more than 6 months
29. Upon the TPS Assured Certificate of Compliance being terminated during a 12-month certification period, the Organisation shall not receive reimbursement of any fees for the remaining outstanding period.

Consequences of termination of TPS Assured Certificate of Compliance

30. Following termination of TPS Assured Certificate of Compliance, the Organisation must immediately:
 - Remove all references to the TPS Assured Certificate of Compliance and Scheme Logo and any references to the TPS Assured Scheme and shall, if requested by the Scheme Administrators, confirm in writing to the Scheme Administrator that all such references have been removed
 - Destroy or return its current TPS Assured Certificate of Compliance to the Scheme Administrator within 30 days of the date of termination and shall, if requested by the Scheme Administrator, confirm in writing to the Scheme Administrator that such certificate and all copies have been destroyed

Renewals

31. The Scheme Administrator shall, three months prior to the renewal date of the TPS Assured Certificate of Compliance, send the Organisation a reminder and a renewal Application Document.
32. If the Organisation wishes to renew its certification it will complete the processes and procedures described in clauses 1-13 of these Terms and Conditions in sufficient time so that the audit can be completed on or prior to the renewal date of the certification.
33. The Organisation accepts that the renewal Application Fee is non-refundable
34. For renewals, most audits are likely to be desk/telephone based and charged at the renewal audit rate as set out in Schedule 5 of the TPS Assured Handbook.

35. Based on the information supplied in the renewal Application Document the Scheme Administrator may require the audit to be conducted via a site visit. This may be required where, for example,
- the Organisation has been the subject of significant organisational change which may have affected its compliance management activities
 - the Organisation has changed its telemarketing outsourcing arrangements or has changed the way in which telemarketing is undertaken in-house
 - where following the issue of a TPS Assured Certificate of Compliance certification, the Organisation may have been in breach of the TPS Assured Assessment Criteria.

In these circumstances the Organisation will be quoted/charged as per schedule 5 of the TPS Assured Handbook.

36. The Assessment Criteria may be reviewed and amended on an annual basis by the Scheme Administrator or on an ad-hoc basis following changes to laws, regulations, guidance or best practice. Upon its application for renewal the Organisation will be audited against the revised Assessment Criteria
37. If the Organisation decides not to renew its TPS Assured Certificate of Compliance beyond the expiry date which is specified on the TPS Assured Certificate of Compliance, the TPS Assured Certificate of Compliance is deemed to be terminated from that date and the Organisation will be required to comply with clause 30 of these Terms and Conditions.

Force Majeure

38. Neither party to these Terms and Conditions will hold the other responsible for failure to carry out undertakings due to factors outside the control of either party, including, but not limited to, Acts of God, labour disputes, strikes, lock-outs, shortages of material or labour, fire, flood, criminal acts or unexpected failure of properly maintained and serviced machinery or equipment.

Jurisdiction

39. These Terms and Conditions shall be governed by and construed in accordance with the law of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

Ownership of TPS Assured and branding

40. The TPS Assured Certificate of Compliance and the right to use the Scheme Logo shall remain the property of TPS Assured. The Organisation agrees not to assign, charge, licence, transfer or otherwise deal with them in any way.

Limitation of Liability

41. The TPS Assured Scheme, the Scheme Administrator, the TPS Assured Auditor and The Telephone Preference Service (Advisory Services) Ltd will not be held liable by either TPS Assured applicants or Organisations holding a TPS Assured Certificate of Compliance for any compliance breaches of the rules, regulations, guidance and good practice contained in Schedules 1- 3 of the TPS Assured Handbook. This limitation applies to all and any breaches that have occurred before, during or after the Organisation has applied to the TPS Assured Scheme or holds a TPS Assured Certificate of Compliance
42. Except for liability for death or personal injury directly resulting from the TPS Assured Scheme, or the Scheme Administrator's or the TPS Assured Auditor's or The Telephone Preference Service (Advisory Services) Ltd's acts or omission, the TPS Assured Scheme's, the Scheme Administrator's, the TPS Assured Auditor's and The Telephone Preference Service (Advisory Services) Ltd's liability in respect of any single event or series of events for breach of its obligations in these Terms and Conditions shall be strictly limited to the amounts payable by the Organisation to the Scheme Administrator in the 12 months preceding the date of the event or events giving rise to the loss.

Insurance

43. The Scheme Administrator reserves the right to require the Organisation to produce satisfactory evidence that it has in force satisfactory insurance coverage for the purpose of meeting any third-party liability.

Complaints

44. If the Organisation has cause to complain regarding the provision of the TPS Assured Scheme, the complaint must be made to the Scheme Administrator. The Scheme Administrator will investigate the complaint in a timely and responsible manner.

Assignment

45. The Telephone Preference Service (Advisory Services) Ltd may assign its obligations under these Terms and Conditions to any company as defined in accordance with s1159 of the Companies Act 2006 and any other corporate body that The Telephone Preference Service (Advisory Services) Ltd has an interest, shares, control or affiliation with.

Appeals

46. Where the Organisation is unable to resolve any dispute relating to the TPS Assured Scheme by discussion with the Scheme Administrator, it may appeal in writing to the Telephone Preference Service Executive Director.

Notices

47. Any notice to be given under these Terms and Conditions shall be in writing and shall be sent by first class registered post, by hand, by fax or by email (and in the case of fax or email confirmed by first class mail) to the address of the relevant party or to the relevant fax number or email address set out therein provided that confirmation is received of complete transmission as set out below. Notice may be given of such other contact address, number or location as each party notifies the other of so long as this shall be in accordance with clauses 47-48 of these Terms and Conditions.
48. Notice sent shall be deemed to have been received three working days after the day of posting (in the case of inland first class) or the next working day after transmission (in the case of fax messages or email but only if a transmission report is generated confirming that all pages were successfully transmitted or confirmation of receipt notice is received by sender confirming that the fax or email was sent, and on the day of delivery if delivered by hand:
 - in the case of an Organisation to contact address or number indicated on its Application Document
 - and in the case of the TPS Assured Scheme to contact address or number indicated in the Scheme Handbook.

Schedule 7

Use of TPS Assured Scheme Logo

TPS Assured logo colour:

When appearing in print, the TPS Assured main colour should be C=83% M=33% Y=63% K=24%

When appearing in web, the TPS Assured main colour should be R=33 G=108 B=92

TPS Assured logo minimum size:

When appearing in print, the minimum size of the TPS Assured logo (including the text) is 12mm wide.

For online purposes, the minimum size for the complete TPS Assured logo (including the text) is 50 pixels wide.

Artwork: The Scheme Logo should be reproduced using artwork provided by the Scheme Administrator.

Implied endorsement: The Scheme Logo must not be used on products or packaging or in any way that implies endorsement by TPS Assured and /or the Scheme Administrators and /or the Scheme Auditors.

Coupons: The Organisation holding a current and valid TPS Assured Certificate of Compliance should not use the Scheme Logo within a response coupon or next to credit card or other payment symbols.

Text: The Organisation holding a current and valid TPS Assured Certificate of Compliance is encouraged to use the Scheme Logo in combination with text to clarify or explain the TPS Assured Scheme, although the Scheme Administrator reserves the right to object to any wording thought to be inappropriate.

Document details

Revisions

This document will be updated by amendment or revision. Users of this document should make sure that they possess the latest amendments or editions.

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Telephone Preference Service
DMA House
70 Margaret Street
London
W1W 8SS