

Code of Practice relating to Electronic Communications Code and the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 and the Town and Country Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)

**Cabinet Siting
and
Pole siting
Code of Practice**

**Issue 1
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Fixed Line Code Operators

**Agreed by: Planning Officer's Society, National Parks England, BT, Virgin Media, UK
Competitive Telecoms Association, English Heritage, JAG (UK), KCOM**

No	TABLE of CONTENTS	PAGE
1.0	Scope	3
2.0	Legislation	3
3.0	General comment in relation to approving authorities and consultees	4
4.0	Code of Practice Principles & Protocols for Cabinets	5
4.1	General	
4.2	Planning & Visual Considerations	
4.3	Health & Safety Considerations	6
4.5	General Guidance over Consultation	7
5.0	Code of Practice Principles & Protocols for Poles	7
6.0	Dispute Management	9
7.0	Monitoring and review	9

This Code of Practice has been developed to complement the changes being made to the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 and the Town and Country Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPD0).

Its intent is to:

- increase the pace of roll out of superfast broadband by providing an engagement framework for Code Operators and local authorities, and providing certainty and clarity for the deployment of electronic communications apparatus;
- seek to avoid and then minimise adverse impacts associated with the provision of new electronic communications apparatus, particularly in Protected Areas; and
- support the dissemination of good practice

1.0 Scope

- 1.1. The purpose of this Code of Practice is to provide guidance to Code Operators, agents, contractors, planning and highway authorities and other persons entitled to be notified of the proposed deployment of electronic communications apparatus on the siting, keeping, maintenance and use of above the ground electronic communications apparatus, specifically cabinets and poles utilised by fixed line Code Operators, not including masts utilised by mobile Code Operators (which falls under a separate code of practice). This Code of Practice is given in the context of such electronic communications apparatus being 'street furniture'. It is not given as guidance as to how such electronic communications apparatus should be used as part of an electronic communications network or service and what legal consents are required for that use.
- 1.2. It is expected that in any network rollout of Next Generation Access (NGA) apparatus that the Code Operators will engage in dialogue between themselves and other infrastructure providers to ensure any opportunities for sharing infrastructure are explored and utilised where possible.

2.0 Legislation

- 2.1 The principal enabling legislation that controls the installation of cabinets and poles is listed below. This Code of Practice has been written pursuant to the relevant primary and secondary legislation and accepted codes of practice and any amendments thereto.
- 2.2 In this respect this Code of Practice is subordinate to relevant primary and secondary legislation (as amended) from time to time which must be followed by Code Operators, agents, contractors, planning and highway authorities and other persons, including but not limited to:

The Electronic Communications Code, Schedule 2 to the Telecommunications Act 1984 as amended by the Schedule 3 to the Communications Act 2003, ("the Telecoms Code")

The Electronic Communications Code (Conditions and Restrictions) Regulations 2003 ("the Code Regulations") Statutory Instrument 2003 No. 2553. [as amended by the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2009 and the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013

The New Roads and Streets Work Act 1991.

The Highways Act 1980.

The Town and Country Planning Act 1990.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The Ancient Monuments and Archaeological Areas Act 1979.

Planning (Listed Buildings and Conservation Areas) Act 1990.

Wildlife and Countryside Act 1981.

National Parks and Access to the Countryside Act 1949.

Environment Act 1995.

Traffic Management Act 2004.

- 2.3 Unless stated otherwise the definitions of words and expressions used in the relevant primary and secondary legislation and accepted codes of practice have the same meaning in this Code of Practice. In particular for definitions see, 'Interpretation', Regulation 2 of the Code Regulations.
- 2.4 Cabinets and poles are defined as electronic communication apparatus in accordance with the definition of electronic communications apparatus stated in paragraph 1 of the Telecoms Code, which states the conditions (amongst other things) by which electronic communications apparatus may be installed, kept and maintained in private land and publicly maintainable highway by a person to whom the Telecoms Code is applied.
- 2.5 The Code Regulations as an instrument made by the Secretary of State provide for additional conditions to those stated in the Telecoms Code for the installation, retention and use of electronic communications apparatus in private land and publicly maintainable highway by a person to whom the Code is applied.
- 2.6 The guidance given in this Code of Practice codifies principles and protocols agreed between fixed line Code Operators and various approving authorities, referred to in Regulation 2 of the Code Regulations, in relation to the seeking and granting of approvals for the siting and design of relevant electronic communications apparatus to be installed within the publicly maintainable highway or private land.
- 2.7 Besides the notifications/approvals/consents stated below, written agreement will be required from the owner and / or occupier as appropriate of the land where a cabinet or new pole is installed in any land which does not form part of a publicly maintained highway.
- 2.8 Whilst it is intended that the general principles of the Code of Practice are adopted across the UK, the specific changes brought forward by the Government in the revised Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013 can only be acted on in Wales, Scotland and Northern Ireland after corresponding changes to planning legislation in these territories. The amended General Permitted Development Order in respect of fixed broadband infrastructure applies only to England.

3.0 General comment in relation to authorities and consultees

- 3.1 Appropriate authorities to be consulted or notified will vary depending on the location of the proposed infrastructure deployment. This will involve the local planning authority and the highway authority but in protected areas consultees will extend to include the following
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where relevant: Natural England, Scottish Natural Heritage, Natural Resources Wales, the relevant National Trust regional office etc. It is important to establish with the local planning authority at the outset whether the infrastructure deployment is proposed in a protected or non-protected area and which bodies require consultation or notification.

- 3.2 Code Operators should initially offer to discuss the application of this Code of Practice with relevant planning authorities (eg local authority, National Park authority etc) in relation to their proposed network deployment programme with a view to identifying opportunities to avoid and minimise adverse landscape impact of proposals for new poles and cabinets. Once detailed proposals are prepared, and in addition to the required documentation, some authorities may then request site visits to discuss apparatus location, others may additionally request a drawing showing proposed apparatus locations. Any such additional dialogue should be in line with the existing one month noticing period as stated in the Electronic Communications Code (Conditions and Restrictions) Regulations.
- 3.3 The boundary of the publicly maintained highway should be, in so far as reasonably practical, established at all proposed siting locations to ensure that apparatus are not installed in private land that does not form part of the publicly maintained highway without first obtaining the owners and or occupiers written agreement.

4.0 Code of Practice Principles and Protocols for Cabinets

4.1 General

- 4.1.1 The requirements of the Town and Country Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country (General Permitted Development) Order 1995 (GPDO) as amended from time to time must be adhered to in the design and sizing of cabinet enclosures. If the permitted dimensions are exceeded then planning approval is required to install a cabinet whether installed in publicly maintained highway or private land.
- 4.1.2 Cabinets should be sited with regard to the Department for Transport “Design Manual for Roads and Bridges”.
- 4.1.3 Where possible cabinets should be installed on the publicly maintained highway.

4.2 Planning and visual considerations

- 4.2.1 Cabinets should be green (BS14 C 40) or black (not matt black), or such colours as otherwise agreed with relevant authorities. In areas identified by the local planning authority as vulnerable (i.e. prone to fly posting or graffiti) where requested by the local planning authority consideration should be given to cabinets being coated with anti-graffiti paint.
- 4.2.2 If the cabinet is to be sited in front of more than one property, the preferred location is at the ground level vertical boundary of the two properties perpendicular to the cabinet.

- 4.2.3 The siting of cabinets adjacent to any listed building and/or Scheduled Monument should be avoided. Scheduled Monument Consent will be required to site any cabinet (and associated underground ductwork) within a Scheduled Monument.
- 4.2.4 To minimise the visual impact, the cabinet should not be sited in a prominent position at a junction or on a bend of the public maintainable highway. Other prominent locations on grass verges or grassed amenity areas should be avoided unless there is a technical justification not to do so. Cabinets must not obstruct any existing means of entering or leaving land. Additional care is to be taken when siting cabinets in Conservation Areas and/or World Heritage Sites. For particularly sensitive parts of Conservation Areas and World Heritage Sites, identified in dialogue with the local planning authority, and where there is no alternative to siting a cabinet in a location deemed unacceptable by the local planning authority, then consideration should be given to using underground watertight cabinets.
- 4.2.5 While cabinets will generally be installed on the publicly maintained highway, where the siting of a cabinet on private land would be both commercially and technically feasible and result in less visual harm, then the Code Operator should investigate that option and give due consideration to its implementation.
- 4.2.6 All cabinets should include a label or plate (maximum size 50mm x 200mm) stating the [name and contact details] of the Code Operator responsible for that cabinet.
- 4.2.7 Where possible, the cabinet should be sited where the back of the footway / highway is defined by a solid means of enclosure (fence, wall, hedge or a combination of these) at least as high as the cabinet allowing access to the cabinet from the footway.

4.3 Health and Safety considerations

- 4.3.1 All abandoned above ground electronic communications apparatus owned by the Code Operator should be removed prior to and / or on or after the siting of new cabinets, Code Operators will take account of any of their existing electronic communications apparatus, in order to avoid overcrowding of apparatus on footways. .
- 4.3.2 Cabinets should be located at the back of the footway unless a security risk is deemed overriding. Where the siting of a cabinet to the rear of the footway is likely to create a 'secure by design' issue (for example, providing *solely by itself* access onto flat roofs / gardens / secure private property), then a kerbside location should be chosen. The nature of the security risk, and whether it is justified as an overriding factor, should be drawn to the attention of the local planning authority. If positioned at the front of the footway where reasonably practicable there should be a minimum clearance of 450mm from the kerb face. Additionally the cabinet should not be placed immediately in front of any ground level window.

- 4.3.3 Where cabinets are sited directly next to a property they should not impede ventilation through air bricks.
- 4.3.4 Cabinets sited by highway junctions must comply with visibility and line of site requirements and must not obscure highway nameplates, as specified in the Department for Transport's document, 'Traffic Signs Manual Chapter 8 – Part 2 Operations'. Sites known to be accident black spots are to be avoided (known to the local highway authority and notified to the Code Operator during the consultation process).
- 4.3.5 The cabinet should not interfere with the designed flow of any footway drainage system.
- 4.3.6 Cabinets should not be located immediately adjacent to any existing manhole or access chamber belonging to any other apparatus owner.
- 4.3.7 Cabinets should be sited parallel to the footway/carriageway in order to minimise any obstruction to the flow of pedestrian or other traffic including designated cycleways.
- 4.3.8 Cabinets should be sited to avoid obstruction of existing vehicular or pedestrian access to properties and public or private rights of way.
- 4.3.9 Cabinets should be located so that they avoid creating safety hazards to the physically and visually disabled.
- 4.3.10 Exposed cabinet plinths should not project more than 25mm beyond the edges of the cabinet sides. On sloping ground cabinets should be set level.
- 4.3.11 Cabinets installed near a tree should conform to the guidelines in the current National Joint Utilities Group Ltd (NJUG) publication volume 4 - 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees'.
- 4.3.12 It is recognised that in order to avoid overheating of equipment cabinets should be sited in locations that will provide acceptable air circulation and preferably be out of direct sunlight. Additionally, for operational reasons, certain cabinets have to be located within specific distance parameters from other cabinets.

4.4 General Guidance over Consultation

- 4.4.1 In a situation where it is not possible to follow the above guidance, early discussion should take place with the relevant authorities to establish the most suitable location for cabinets before the relevant notification is made.

5.0 Code of Practice and Protocols for New Poles

- 5.1 The sharing of pole structures should be considered at the design stage in order to reduce unnecessary duplication and visual impact.
 - 5.2 Where there is a requirement for the siting of new poles they should be sited (where relevant and practical) in accordance with the guidance stated in sections 1, 2 and
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3above. In addition, the following will apply:

- 5.3 Where new poles are to be installed the Code Operator should place a site notice (coinciding with notification to the relevant authorities) in as close proximity as possible to the proposed apparatus indicating to nearby residents the intention to install a pole, and the proposed location. The location of such notices should be discussed with the relevant authorities at the initial engagement meeting. Notices should state the name and contact details of the Code Operator. In National Parks and Areas of Outstanding Natural beauty, the Code Operator should discuss new pole locations with the relevant National Park Authority or AONB Partnership at an early stage to identify opportunities to minimise any adverse landscape impact
- 5.4 The preferred position for poles is on the publicly maintainable highway and where possible in the footway adjacent to the property boundary rather than at the kerb edge. (other than where Health & Safety considerations such as spiked railings etc may occur)
- 5.5 If the pole is to be sited in front of more than one property, the preferred location is at the vertical boundary of the two properties perpendicular to the location of the pole.
- 5.6 Wherever possible, on footways or grass verges the pole position should be a minimum of 500mm from the kerb stones or other carriageway edges.
- 5.7 The siting of poles adjacent to any listed building and/or Scheduled Monument should be avoided. Scheduled Monument Consent will be required to site any pole (and associated underground ductwork) within a Scheduled Monument.
- 5.8 All new poles should be sited, so far as is practicable, so as to minimise their impact on their setting, including the landscape and any buildings. To minimise the visual impact, poles should not be sited in a prominent position at a junction or on a bend in the road. Other prominent locations on grass verges or grassed amenity areas should be avoided unless there is a technical justification. Poles must not obstruct any existing means of entering or leaving land. Additional care is to be taken when siting poles in Conservation Areas and/or World Heritage Sites. For particularly sensitive parts of Conservation Areas and World Heritage Sites, identified in dialogue with the local planning authority, and where there is no alternative to siting a pole in a location deemed unacceptable by the local planning authority, then consideration should be given to using underground service feeds.
- 5.9 While poles will generally be installed on the publicly maintained highway, where the siting of a pole on private land would be both commercially and technically feasible and result in less visual harm, then the operator should investigate that option and give due consideration to its implementation.
- 5.10 Poles sited by highway junctions must comply with visibility and line of site requirements and must not obscure highway nameplates, as specified in the Department for Transport's document, 'Traffic Signs Manual Chapter 8 – Part 2 Operations'. Sites known to be accident black spots are to be avoided (known to the local highway authority and notified to the Code Operator during the consultation process).

- 5.11 The pole should not interfere with the designed flow of any footway drainage system.
- 5.12 Poles should not be located immediately adjacent to any existing manhole or access chamber belonging to any other apparatus owner.
- 5.13 Poles should be located in accordance with DoT guidelines so that they avoid creating safety hazards to the physically and visually disabled.
- 5.14 Consideration should also be given to the following aspects which may impact on the installation and maintenance of the pole :
- Safe access including Ladder positioning
 - Pole testing
 - Access by Elevating Platform
 - Surface reinstatement requirements following pole testing
 - Pole replacement
 - Adherence to minimum cable heights

6.0 Dispute Management

6.1 Complaints

To ensure that all infrastructure deployments are compliant with this Code of Practice a Code Operator as a matter of good practice should have a complaints procedure to handle complaints from members of the public and other stakeholders that refer to infrastructure deployment. It is expected that such a complaints procedure :

- Will deal with complaints in a professional manner.
- Will provide for the complaints to be escalated to a higher level within the Code Operator's organisation
- Should be transparent with a formal written response to the complainant detailing the reasons for accepting or rejecting the complaint
- Should provide for complaints to be dealt with in a diligent and timely manner
- Will keep records of the numbers of formal complaints, time to action and the outcome

7.0 Monitoring and review

- 7.1 To ensure the effectiveness of the Code of Practice is kept under review: Code Operators and local authority representatives should meet to review the effectiveness of the Code of Practice initially after 12 months following publication, and then every 18 months after that to share learning and to resolve any issues. The meetings shall be convened by the Department for Culture, Media and Sport, and chaired independently. A summary of these meetings shall be provided to the Department of Culture, Media and Sport who will consider it, together with any other representations received, in relation to the effectiveness of the Code of Practice.

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