



BEST PRACTICE STATEMENT for SITE ACCESS

Version 1 Adopted 16th December 2022 (para 2.9 amended 15th September 2023)

Description

Ofcom's Code of Practice on Electronic Communications Code¹ sets out the good practices expected of operators, landowners and their professional advisers with respect to accessing of sites both at the pre-contractual phase for the purpose of surveying a site for suitability and also for subsequent access for maintenance and repair. This best practice statement expands on those principles to help both parties address some of the practical issues that can arise.

1. Requesting access for a survey

An Operator, Wireless Infrastructure Provider or their agents (hereinafter referred to as Operator) wishing to access land for the purpose of surveying its suitability for siting electronic communications apparatus should contact the Landowner (hereinafter referred to as the Potential Site Provider or Site Provider) of a potential site and provide the following information:

- 1.1 Identity of the Operator and or agent, points of contact for Operator and or any agent.
- 1.2 the search areas on the Potential Site Providers land for possible installation of apparatus.
- 1.3 Requirements for initial survey: -
 - What access is desired?
 - With what apparatus?
 - Over what timescale?
- 1.4 General description of likely apparatus and any ancillary connections required, for example power or fibre connections.
- 1.5 Confirmation of whether planning consent would be required (if known).
- 1.6 Anticipated type of future deployment sought (e.g. whether it is of a temporary or long-term nature).
- 1.7 The letter may also include information about what action an Operator might take, in the event that the Potential Site Provider fails to respond.

¹ https://www.ofcom.org.uk/__data/assets/pdf_file/0025/108790/ECC-Code-of-Practice.pdf

- 1.8 An assurance from the Operator to make good any damage to the Potential Site Provider's property.

N.B. In some instances when an Operator is surveying a property, and it becomes apparent that the apparatus could be better suited on an adjoining property, it may be possible to agree with the Landowner of that adjoining property to complete a survey immediately and then follow-up in writing once the survey has been completed.

2. Greenfield

- 2.1 Once it has been determined that new apparatus is required in a given area, the Operator may identify various options for new sites and survey possible solutions based on technical and planning considerations.
- 2.2 Although access to maps, satellite imagery, building plans etc. can enable much of the site feasibility to be conducted remotely, direct access to a potential site and the ability to discuss practical matters with a Potential Site Provider will be required.
- 2.3 Operators should engage with Potential Site Providers as early as possible in the process.
- 2.4 The Operator should generally request that access is given within a reasonable period. The access request should set out the nature of the visit and a basic outline of the requirements.
- 2.5 Operators should direct the Potential Site Provider towards the OFCOM Code of Practice.
- 2.6 To ensure the site survey is productive, the parties may choose to meet on site.
- 2.7 At the appropriate moment in the assessment process, the Prospective Site Provider, on the Operator's request, should seek to provide relevant information such as:
 - Who owns/occupies the site and details of any other parties with a known interest in land or access to it;
 - The current use of the site;
 - Whether there are any multiple occupancy management arrangements in place
 - Any planned change or intended change in ownership, occupation or use;
 - Any proposals there may be to change the use of or develop the land, including whether there are any existing planning permissions in place;
 - Details of known pipes, drains, cables or structures...etc;
 - Whether there is/are any harmful materials, liquids, vegetation, sites of special scientific interest, protected flora, fauna, listed buildings, archaeological considerations, or public rights of way on or adjacent to the site.
 - Any other rights of access on the site or adjacent to the site.
- 2.8 Operators should recommend to a Potential Site Provider that they may seek professional advice and outline to them the basis of any offer to contribute toward the reasonable costs of such advice.
- 2.9 Potential Site Providers should be advised that they are responsible, in the first instance, for meeting their professional representatives' reasonable costs (per RICS guidance). Operators will reimburse a site provider for their reasonably and properly incurred professional costs within pre-agreed parameters.
- 2.10 A Potential Site Provider should be advised that they would be expected to act reasonably and to mitigate their losses and reasonable costs.

- 2.11 Access for a non intrusive survey of a greenfield site should be capable of being agreed without needless complexity, debate or expenditure on either party.
- 2.12 Any subsequent more intrusive surveys e.g. bore hole / trial dig surveys should have before and after photographs undertaken and the the Operator should make good the land as a result of any damage to the land resulting from such bore hole or trial dig. Contractors conducting bore hole surveys etc should provide a simple method statement to the SP which should identify any site clearance measures and the route they will likely take to get to the site. The prospective site provider should advise the operator / contractor of any issues which might require to be taken into account e.g. parking restrictions, locked gates, loose livestock etc.

3. Rooftop

Non-Intrusive Surveys

Multi Skilled Visit(s) MSV, there may be more than one, may be required by an Operator to determine the suitability of a rooftop for telecommunication purposes. Such MSV will undertake technical and practical evaluations, through visual inspections of the relevant parts of the building, including for the taking of photographs and measurements and completing sketch drawings. A MSV will be used to assess the site from a radio propagation perspective, identify potential access routes, establish whether a crane might be required during installation and from where and the route by which the equipment would obtain its power and where equipment could be located.

The parties and their professional advisors should act in such ways as to ensure that non-intrusive Rooftop MSVs and or Line of Site Surveys are undertaken without unreasonable costs and delays.

Requests by an Operator to undertake a non-intrusive MSV should be responded to promptly and dealt with as simply as possible. An interim rights agreement should not usually be necessary for non-intrusive surveys as this should be a straightforward, low risk matter (provided that it is accepted by the Operator that this does not commit or bind the Potential Site Provider in any way).

- 3.1 Operators should direct the Potential Site Provider towards the OFCOM Code of Practice.
- 3.2 The Operator should offer to reimburse a Potential Site Provider for any reasonable costs properly incurred by the Potential Site Provider in providing access to the site for carrying out of such surveys and for any costs associated with providing copies of plans or building reports (where requested). Generally, it should not be necessary for the Operators professional representatives to be accompanied by Potential Site Provider's professional representatives. However, there may be benefit in some instances for Potential Site Provider's professional representatives to attend.
- 3.3 The Operator and Potential Site Provider should agree when access shall be provided and on provision of what information by the Operator and to whom.
- 3.4 The Potential Site Provider should review and turn around such requests without undue delay.
- 3.5 The Operator should provide prior notice on each occasion before entering the property to carry out such surveys;

- 3.6 The Operator shall comply with all regulations, laws and bylaws from time to time relating to the carrying out of the surveys and with all reasonable health and safety requirements of the Potential Site Provider;
- 3.7 For sensitive sites the Operator should comply with all reasonable security requirement of the site provider eg. MOD premises, fire station, police station, schools, hospitals, utility sites etc.
- 3.8 The Operator should not cause any undue noise or disturbance to the occupants of the property;
- 3.9 The Operator should undertake not to damage the property.
- 3.10 Potential Site Providers should make available any plans, asbestos survey reports, roof covering warranties, details of any residual risks or building risk assessment, structural drawings, fire risk assessments and certificates (where available) of their building which would assist the Operators in determining the viability of the site from a technical and structural perspective. If there are associated costs in the provision of this information – the Potential Site Provider should indicate what reasonable nominal costs might be involved and agreement reached over these.
- 3.11.1 Potential Site Providers should make Operators aware of any planned works or redevelopment plans for the building.

Intrusive Surveys (Rooftop)

- 3.12 The Operators representatives may require to undertake intrusive survey(s) e.g. where the fabric of the building and structural components of the building cannot be ascertained by visual inspection or where there are inadequate or absent structural design drawings for the premises.
- 3.13 The parties should ensure that the intrusive works are carried out to a professional standard and any damage caused by intrusive works are made good and any re-certification is completed by a suitably qualified person at the Operator's cost.
- 3.14 Potential Site Providers should wherever possible facilitate access to tenanted parts of the building where these are necessarily required by the Operator to enable structural surveys to be undertaken. In the event that the Site Provider would incur costs in facilitating intrusive or structural surveys, these should be first discussed and agreed with the Operator. The Operator would then be expected to meet any agreed reasonably incurred costs.
- 3.15 Where opening up works are required Operators should provide clear documentation setting out method statements and specification of works.
- 3.16 Where intrusive works are required the parties acting reasonably shall agree the approach to be undertaken in order to minimise potential impact and facilitate such works as soon as practicable.

4. Negotiating Access Rights – Key Principles

- 4.1 During the term of an Agreement and any period of continued occupation thereafter, the parties should follow the access rights and or procedures set out within the agreement or as subsequently agreed and documented in writing.
- 4.2 When negotiating a new lease or renewal Operators and their representatives and Site Providers and their representatives should discuss appropriate and necessary access arrangements which should be agreed and documented between the parties.
- 4.3 Access arrangements should cover the following points, where appropriate
 - a. Contact details (including in emergencies) for
 - i. The Operator
 - ii. The Landowner / Site Provider
 - iii. Any Occupier of the land, if different from the Landowner / Site Provider
 - iv. Details of any other parties with a known interest in land or access to it
 - b. Description of access arrangements (including any out of hours or weekend factors (e.g. for business premises that are closed at the weekend)).
 - c. Any site specific considerations, for example
 - i. Requirement for supervision at sensitive or hazardous sites (and the treatment of any costs).
 - ii. Bio-security and any other appropriate security arrangements.
 - iii. Any relevant environmental schemes (where care has to be taken not to contravene the rules of the scheme).
 - d. Parking and access routes across land or other buildings for construction and maintenance personnel, vehicles, equipment and apparatus.
 - e. Adherence to the Countryside Code, or the Scottish Outdoor Access Code (or as amended) where relevant.
- 4.4 The parties should agree, and set out within the agreement, what notice (**if any**) is required for the different types of access requirements. It can often help resolve access issues by acknowledging the difference between the need for emergency access (to fix or prevent service impacting faults) and planned access.
- 4.5 Typically for major works (construction, significant upgrade, decommissioning) there may be a requirement for different notice than for a service impacting fault where no or minimal notice should be required.
- 4.6 The parties should agree when negotiating a new lease or renewal what necessary information (**if any**) is to be provided by the Operator or Agents to the Site Provider to accompany access requests. Case law has been clear that the type of site and its impact on the Site Provider's property will influence the level of information (if any) which the Site Provider need to receive with an access request.
- 4.7 The parties and their agents should think about the respective business needs and treat each others' property with respect.

- 4.8 Where the parties are dealing with a portfolio of sites and where the parties agree they may consider having regular calls to deal with any issues with the aim of developing a working partnership ethos.
- 4.9 Operators shall ensure that those working for them are compliant with H&S legislation.
- 4.10.1 Operators should not leave rubbish, created by them or those acting on their behalf, on site and Site Providers should notify Operators in the event of any issues in this regard.
- 4.11 Only where appropriate the parties may agree a site specific base set of Health and Safety Documentation including Risk Assessments and Method Statements (RAMS) for each site where possible but acknowledge that these will be dynamic in nature, in so far as hazards are identified at any stage in the process in order that such risks can be factored within the RAMS.
- 4.12 As agreements typically run for a number of years the parties should be prepared to consider requests for minor changes to access procedures which do not impact the basic rights and responsibilities nor the costs of obtaining or giving or hosting access.
- 4.13 Site Providers to make available to Operators their Health and Safety Files for any buildings on an ongoing basis to enable dynamic risk assessments to be made.
- 4.15 Operators to ensure that access arrangements are known by those acting on their behalf.

5. Emergency Access

In the case of emergencies, such as where there is a service-affecting fault or the apparatus is malfunctioning, Operators need to access the apparatus without delay to resolve the issue and maintain service for customers and the wider public, including the ability to make calls to or by the emergency services. The parties should seek to agree that access for Emergency Access is to be as unfettered as reasonably possible. Operators need to be able to properly maintain and repair their networks.

- 5.1 Operators will generally seek provision for 24/7 access to fix service impacting faults "Emergency Access". The parties should agree and document how this can be achieved.

6. Routine Access (Maintenance) and Minor Upgrade

Arrangements for routine access and maintenance should be agreed between the parties in writing

- 6.1 When arriving at the appropriate access provisions the parties should seek to minimise their complexity, delay and burden whilst specifying what is reasonable and proper.
- 6.2 The Operator should ensure that its equipment is maintained in a good state of repair.
- 6.3 If a Site Provider becomes aware of any damage to the Operators equipment it should make the Operator aware as soon as possible.
- 6.4 Any damage caused by the Operator during routine access (maintenance) and minor

upgrades should be repaired without delay by the Operator and at the Operator's cost.

7. Access Build and Major Works

Operators and Site Providers should collaborate to facilitate build and major works in a timely manner.

- 7.1 Operators should seek to understand and then mitigate as far as reasonably practical the impact of their build and major works upon the Site Provider and building occupiers through dialogue with the Site Provider and take on board any relevant comments from the Site Provider regarding those works.
- 7.2 Operators should prepare appropriate RAMS in advance of undertaking any works.
- 7.3 Site providers should make available any Health and Safety File, Asbestos Report or Fire Safety Documents for the building if available.
- 7.4 Works should be planned with reasonable notice.
- 7.5 Operators exercising works which are within rights of an agreement should nevertheless, as good practice, provide the Site Provider with information appropriate to the works e.g. works programme, timing of works, main contractor responsible for the works and contact details for any escalations. Operators should give consideration to any reasonable concerns of the Site Provider when planning the works and during execution of the works.
- 7.6 Where is possible and if not already defined within the Agreement the parties should ideally agree and document which areas can be used for set down or use of cranes or access platforms and any access arrangements to be used
- 7.7 Where retained land outside those reserved within the agreement or as otherwise utilised by the Site Provider or their tenants or occupiers, the parties should discuss how, when they come to use it, the availability of this space will be orchestrated by the Site Provider and the reasonable timelines required to achieve this.
- 7.8 There may be occasions where the Operator needs to access land outside the rights reserved within the Agreement to facilitate major works. The parties should engage to attempt to make such land available and to agree the reasonable terms of such access.
- 7.9 Operators should ensure that their works are conducted in accordance with all Health and Safety at Work and CDM requirements as appropriate.