

Ofcom Statement: Electronic Communications Code

Overview

Ofcom has published its [revised](#) Electronic Communications Code of Practice (the Code).

In 2023 Ofcom undertook a review of the Code, which was originally published in 2017, in order to ensure it remains fit for purpose following a number of legislative developments in recent years. The revised version of the Code has been developed based on responses to its recent [Consultation](#), which concluded in November, and primarily aims to improve clarity and reduce confusion or misinterpretation. Notably, the revised Code includes text relating to the process for resolving disputes that may arise between Operators and Site Providers, and best practice in relation to Alternative Dispute Resolution (ADR) procedures.

The summary below outlines key changes which have been made from the *proposed* Code (consultation version), based on responses to the consultation, and are included in the new, final version.

Changes to the Code

- **Definition of site provider:** the term 'Site Provider' will now be used to indicate when something applies to both a 'Landowner' and an 'Occupier', as set out in the Consultation.
 - The Code will also include examples of what is meant by "an Occupier".
- **Professional advice:** the wording 'fees policy', in relation to when a Site Provider's professional fees could be compensated, has been amended to 'approach to fees' (A3.19) as the previous term was deemed misleading.
 - In addition, the wording 'should be left out of pocket' has been changed to reflect that potential Site Providers are responsible for meeting their professional representatives' reasonable costs and that Operators will reimburse a site provider for professional costs within pre-agreed parameters (see A3.19).
- **New agreements for the installation of apparatus:** the '7 day' example under *Responding to a Request for Access by the Operator* (see A1.28) will be removed, as proposed by the Consultation, as this was deemed not achievable.
- **Electromagnetic Fields (EMF):** in response to feedback, the EMF section in the Code has been revised to clarify the scope and compliance requirements (A3.42 - A3.47).
- **The ongoing access to and operation, maintenance and upgrading of existing sites and apparatus:** reference has been added to require clear provision for emergency and out of hours access between Operators and Site Providers (A3.49 and Schedule B).
- **Sharing and upgrading of overground apparatus:** Ofcom agreed with a number of responses which clarified that sharing and upgrading references in the Code provide a floor to what is expected and do not preclude going above that level, but made no specific changes.

- Additionally, the 'underground' and 'overground' sharing and upgrading sections have been combined, with an additional additional section that applies just to underground.
 - **Decommissioning sites and removal of redundant apparatus:** the revised Code removes specific reference to ducts and cables in this section (see A3.68).
 - **Redevelopment by the Site Provider:** wording has been added to reference local plans, such as the London Plan (A3.12).
 - **Resolving disputes:** the Code has made amendments to improve clarity relating to ADR (A3.81 - A3.88).
 - A3.82: *the term "early" has been added to the line requiring parties to engage in dialogue.*
 - A3.84: *the text , "In turn, Site Providers should consider and respond to offers of ADR and can initiate ADR proceedings themselves" has been added.*
 - A3.87: *"serve legal notices" has been changed to "begin legal proceedings".*
 - **Interaction with PIA remedy:** the *Sharing and Upgrading of Apparatus* section (A3.56 - A3.61) has been amended to ensure that the Code does not undermine PIA.
 - A3.87: *"serve legal notices" has been changed to "begin legal proceedings".*
 - **Interaction with PIA remedy:** the *Sharing and Upgrading of Apparatus* section (A3.56 - A3.61) has been amended to ensure that the Code does not undermine PIA.
-