



# Electronic Communications Code

Digital Economy Bill: Proposed Code of Practice,  
Standard Terms of Agreement and Standard Notices

Consultation

Publication date: 24 March 2017

Closing Date for Responses: 2 June 2017

# About this document

In July 2016, the Government introduced the Digital Economy Bill to Parliament. Amongst other things, the Digital Economy Bill would, if adopted, reform the 'electronic communications code' by including a range of measures to make it easier for network operators to rollout infrastructure (such as phone masts, exchanges and cabinets) on public and private land. The Bill is due to complete its progress through Parliament shortly..

The reforms to the electronic communications code proposed in the Digital Economy Bill are wide-ranging and will be of particular significance for network operators and landowners. However, they include new obligations on Ofcom to publish:

- a Code of Practice to accompany the proposed changes to the electronic communications code;
- a number of template notices which must be used by Code operators and landowners/occupiers; and
- standard terms which may (but need not) be used by Code operators and landowners or occupiers when negotiating agreements to confer Code rights.

Ofcom has prepared drafts of each of the documents referred to above and, as envisaged by the Digital Economy Bill, is now seeking views on each of these.

# Contents

Section		Page
1	Executive Summary	1
2	Introduction	2
3	What we are consulting on	7
4	Next steps	10
Annex		Page
1	Responding to this consultation	11
2	Ofcom's consultation principles	13
3	Consultation questions	15
4	Draft Code of Practice	16
5	Schedules to the Code of Practice	25
6	Draft Standard Terms	27
7	Draft Template Notices	40

## Section 1

# Executive Summary

- 1.1 The electronic communications code (**the Code**) currently confers certain rights on operators to whom it has been applied (**Code operators**) to install and maintain electronic communications apparatus on public land. In addition, a Code operator may apply for a court order to install and maintain apparatus on private land, if it has been unable to reach agreement with the landowner.
- 1.2 In July 2016, the Government introduced the Digital Economy Bill (**DEB**) to Parliament, which includes wide-ranging reforms to the Code, including new obligations on Ofcom to publish:
  - a Code of Practice to accompany the proposed changes to the Code;
  - a number of template notices which must or may (depending on the circumstances in question) be used by Code operators and landowners/occupiers; and
  - standard terms which may (but need not) be used by Code operators and landowners or occupiers when negotiating agreements to confer Code rights.
- 1.3 The purpose of this consultation is to provide stakeholders with the opportunity to comment on drafts of each of the documents referred to above. We recognise that the DEB may be subject to further amendments before it is enacted, but consider it appropriate to consult at this stage to ensure we can comply with our statutory duties as soon as possible after the relevant provisions of the ensuing Act come into force.
- 1.4 Ofcom has developed the draft Code of Practice (and supporting standard terms and notices) working with a balanced cross-section of representatives nominated by different stakeholder groups, in order to take full account of a broad range of interests and concerns.
- 1.5 Stakeholders have previously questioned whether relationships between wholesale infrastructure providers (**WIPs**) and communications providers (**CPs**) were effectively governed by the Code or would fall within the scope of Ofcom's other regulatory powers. We can confirm that certain of Ofcom's other statutory powers could enable us, in principle, to regulate the terms on which WIPs grant access to their infrastructure.
- 1.6 This consultation will be open for 10 weeks, closing on Friday 2 June 2017. After the consultation closes we will review all submitted responses and publish finalised versions of the Code of Practice and accompanying standard terms and notices in a final statement which will be published as soon as possible following the entry into force of the relevant provisions of the DEB.
- 1.7 We are committed to monitoring and reviewing the Code of Practice following the publication of our final statement, to ensure that its content remains fit for purpose, appropriate and proportionate in light of on-going developments.

## Section 2

# Introduction

## Overview

- 2.1 The Code currently confers rights on certain providers of electronic communications networks and systems of conduits (designated by Ofcom as ‘Code Operators’) to install and maintain electronic communications apparatus (including masts, exchanges, cabinets and cables) on public land. Code operators may also apply for a court order to install and maintain apparatus on private land, if it has been unable to reach agreement with the landowner. The Code therefore regulates the legal relationship between landowners and Code Operators.
- 2.2 In July 2016, the Government introduced the DEB to Parliament. Amongst other things, the DEB would, if adopted, reform the Code by including a range of measures to make it easier for Code operators to roll out electronic communications apparatus.<sup>1</sup> As at the date of publication of this document, the Bill was being debated in the House of Lords.
- 2.3 The reforms to the Code proposed in Schedule 1 of the DEB (**the New Code**) are wide-ranging and will include, for example, significant changes to the way land is valued and an automatic right for Code operators to upgrade and share their telecommunications apparatus.
- 2.4 They will also include new obligations on Ofcom to publish:
- a Code of Practice to accompany the New Code;
  - a number of template notices which may or must (depending on the circumstances) be used by Code Operators and landowners/occupiers; and
- standard terms which may (but need not) be used by Code Operators and landowners/occupiers when negotiating agreements to confer Code rights.
- 2.5 The purpose of this consultation is to provide interested parties with the opportunity, in accordance with paragraphs 89(3) and 102(4) of the New Code,<sup>2</sup> to comment on drafts of each of these documents.
- 2.6 We recognise that the DEB has not yet received Royal Assent and that it may be subject to further amendments during the course of the legislative process. However, we consider it appropriate to consult at this stage so that we are capable of complying with our statutory duties as soon as Schedule 1 of the DEB enters into

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<sup>1</sup> This would be achieved by repealing the current version of the Code (set out in Schedule 2 to the Telecommunications Act 1984) and inserting a new version of the Code into a new Schedule 3A of the Communications Act 2003. The new version of the Code is currently set out in Schedule 1 of the DEB.

<sup>2</sup> All references in this Consultation and accompanying Annexes to the Digital Economy Bill or the New Code are based on [HL Bill 102 56/2](#), published on 8 February 2017, which incorporates amendments made up to and including the House of Lords Committee stage.

force, or shortly thereafter.<sup>3</sup> Whilst we recognise that we may need to re-consult on some of these documents in the event that substantial changes are made to the New Code before it enters into force, we would not expect to re-consult if the changes are only minor in nature.

## History of the Electronic Communications Code

- 2.7 The Code was originally enacted in 1984 to regulate the provision of landline telephony under Schedule 2 of the Telecommunications Act. It was later amended by Schedule 3 of the Communications Act 2003,<sup>4</sup> to enable it to support the infrastructure which delivers broadband, mobile internet, and cable TV.
- 2.8 Between 2011-2013, in response to a request from the Department for Culture, Media and Sport, (DCMS), the Law Commission conducted a review of the Code. Published in February 2013, this review<sup>5</sup> contained more than 15 pages of recommendations for reform.
- 2.9 Later in 2013, the Growth and Infrastructure Act<sup>6</sup> introduced a series of temporary amendments (with a lifespan of 5 years) to the Code, primarily designed to accelerate the deployment of broadband infrastructure.
- 2.10 At the start of 2015, the Coalition Government tabled amendments to the Infrastructure Bill which, if enacted, would have included substantive reforms to the Code<sup>7</sup> based on the Law Commission recommendations. These amendments were subsequently withdrawn in the face of stakeholder concerns, to allow further consultation and research to take place. DCMS subsequently published its own Consultation Document in February 2015. The formal consultation period ran for 9 weeks ending 30 April 2015. Following this, DCMS undertook further consultation with all stakeholders, and commissioned independent economic research into the impact of a range of reform options in the market.
- 2.11 In May 2016, the Government announced that the Code would be reformed in the forthcoming Digital Economy Bill, “*offering major reforms to the rights that communications providers have to access land.*”<sup>8</sup>

## Our prospective duties as set out in the Digital Economy Bill

- 2.12 As explained above, the New Code set out in Schedule 1 of the DEB would, if enacted, require Ofcom to prepare and publish a number of documents.
- 2.13 First, paragraph 89 of the New Code provides that Ofcom must “*prescribe the form of a notice to be given under each provision of this code that requires a notice to be given*”. If the DEB were to become law, Ofcom would therefore be required to publish

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<sup>3</sup> Schedule 1 of the DEB will be brought into force on a date to be appointed by the Secretary of State by statutory instrument (section 97(7), DEB).

<sup>4</sup> [Communications Act 2003, Section 106, Schedule 3: Amendments of Schedule 2 of the Telecommunications Act 1984](#)

<sup>5</sup> [The Law Commission, The Electronic Communications Code, 27 February 2013](#)

<sup>6</sup> [Growth and Infrastructure Act 2013, section 9](#)

<sup>7</sup> [Telecommunications, Written Answer, 6 January 2015](#)

<sup>8</sup> [DCMS, A New Electronic Communications Code, 17 May 2016, page 4](#)

a number of template notices which must or may (depending on the circumstances) be used by Code operators and landowners/occupiers.

- 2.14 Secondly, paragraph 102(1) of the New Code<sup>9</sup> would require Ofcom to prepare and publish a code of practice dealing with:
- a) the provision of information for the purposes of the New Code by operators to persons who occupy or have an interest in land;
  - b) the conduct of negotiations for the purposes of the New Code between operators and such persons;
  - c) the conduct of operators in relation to persons who occupy or have an interest in land adjoining land on, under or over which electronic communications apparatus is installed; and
  - d) such other matters relating to the operation of the New Code as Ofcom think appropriate.
- 2.15 The Government explained in its consultation on the Code that the Code of Practice will enable smooth implementation of its long-term reforms, and that it would like to see all stakeholder groups in the industry work together with Ofcom in its development. It is important to note that the purpose of this proposed Code of Practice is to set out expectations for the conduct of parties to agreements made under the New Code. It does not represent a guide to the New Code nor does it replace the provisions of the New Code. Instead it is designed to complement the New Code by facilitating positive and productive engagement between all parties across a range of issues, roles and responsibilities.
- 2.16 The Code of Practice is non-binding (in the sense that there is no statutory obligation on operators or landowners to comply with its provisions). However, we would expect parties to seek to act in accordance with the principles set out in the Code of Practice. We would also note that courts may take account of compliance with relevant codes of practice when assessing conduct in awarding costs. Taken together, this should ensure that the Code of Practice has real impact on ensuring best practice in the deployment of digital communications infrastructure. Thirdly, paragraph 102(2) of the New Code would require Ofcom to prepare and publish standard terms which may (but need not) be used in agreements under the New Code.

## **Draft Code of Practice development process**

- 2.17 As explained above, the Government suggested in its consultation on the Code that it would like to see all stakeholder groups in the industry work together with Ofcom to develop the Code of Practice.
- 2.18 Ofcom has developed an initial draft of this Code of Practice working with a wide spectrum of stakeholders including representatives from the fixed and mobile operator community, communications infrastructure providers and representatives from the National Farmers Union (NFU), the Country Land & Business Association

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<sup>9</sup> [Digital Economy Bill, HL Bill 102 56/2, 8<sup>th</sup> February 2017, page 159](#)

(CLA), the British Property Federation (BPF) and the Central Association of Agricultural Valuers (CAAV).

- 2.19 Throughout this process, Ofcom has acted as a neutral facilitator, with the objective of encouraging a balanced cross-section of representatives from different stakeholder groups to arrive at a consensus which reflects a broad range of interests and concerns.
- 2.20 On 28 July 2016 Ofcom held an initial scoping meeting with stakeholders setting out its approach to the Code of Practice drafting process, and invited different stakeholder communities to nominate representatives to serve on a Code of Practice Drafting Group.
- 2.21 In September 2016 we confirmed the membership of the Code of Practice Drafting Group, composed of eight specialist practitioners representing landowners, communications network operators and infrastructure providers.
- 2.22 Between September and December 2016 the Drafting Group prepared successive versions of the draft Code of Practice document, which was reviewed at monthly meetings hosted by Ofcom designed to capture additional input from a wider group of cross-sector stakeholders.
- 2.23 In parallel to the mainstream stakeholder engagement process, Ofcom prepared supporting templates for standard notices and standard terms (see Annex XX), the latter of which was based on material submitted by the wider stakeholder group referenced above.
- 2.24 In accordance with our pre-agreed schedule, the Drafting Group submitted a finalised version of the draft Code of Practice to Ofcom on the 16 December 2016. We have reviewed their output and believe that, with some minor drafting amendments, it meets the requirements specified in paragraph 102(1) of the New Code. Consequently, this text constitutes Annex 4 of this document, which we are now putting out for consultation to a wider range of interested parties.

## Regulating access to WIP infrastructure

- 2.25 During the development of the package of reforms to the Code that led to the amendments proposed in the DEB, stakeholders provided a range of inputs to DCMS and Ofcom with regard to whether the relationships between WIPs<sup>10</sup> and CPs (particularly mobile network operators(MNOs)) were effectively governed by the Code and, if not, what reforms to the Code might be necessary.
- 2.26 Government concluded that specific changes to the Code were unnecessary, as explained in the DCMS policy statement “A New Electronic Communications Code” published in May 2016.<sup>11</sup>

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<sup>10</sup> WIPs are organisations that provide physical infrastructure (i.e. sites, masts, etc.) to MNOs to enable them to roll-out their networks. The largest independent WIPs are Arqiva and Wireless Infrastructure Group (WIG). The MNOs themselves act as WIPs when granting each other access to their respective masts.

<sup>11</sup> [DCMS, A New Electronic Communications Code, May 2016](#)



- 2.27 We would note that, since DCMS published this statement some progress towards the development of a voluntary Code of Practice between WIPs and MNOs has been made, which Ofcom is supporting. Nevertheless, we recognise that industry stakeholders are seeking confirmation that, in the event that commercial negotiation and any subsequent arbitration fails, the terms on which WIPs grant access to their infrastructure can be regulated.
- 2.28 Whilst it is difficult to provide a view on this issue in the abstract, we can confirm that Ofcom has a number of statutory powers which could enable us, in principle, to regulate the terms on which WIPs grant access to their infrastructure. For example, Ofcom has certain powers to regulate access to infrastructure under the following legislation:<sup>12</sup>
- regulation 3(4) of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003/2553;<sup>13</sup>
  - section 73 of the Communications Act 2003 (the “**2003 Act**”) (i.e. by imposing an access-related condition);
  - section 87 of the 2003 Act (i.e. by imposing a significant market power (**SMP**) condition); and
  - section 185 of the 2003 Act (i.e. by resolving a dispute relating to the provision of network access).
- 2.29 We note that, in the first instance, we would generally seek to resolve problems using the most appropriate and least intrusive approach, with recourse to more formalised regulatory interventions only where necessary.

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<sup>12</sup> Ofcom also has certain powers under general competition law to address abuse of dominance or anti-competitive agreements.

<sup>13</sup> Regulation 3(4) specifies that a Code operator “where practicable, shall share the use of electronic communications apparatus”. Ofcom have powers under section 110 of the 2003 Act to enforce this requirement.

## Section 3

# What we are consulting on

## Draft Code of Practice

- 3.1 As explained in Section 2 above, the DEB would (if adopted) require Ofcom to prepare and publish a Code of Practice to accompany proposed reforms to the Code.
- 3.2 We are now consulting on the draft Code of Practice and accompanying Schedules which can be found in **Annex 4 and Annex 5**, respectively.

*1. Do you have any comments in relation to the scope or drafting of the Code of Practice, as set out in Annexes 4 and 5?*

## Draft standard terms

- 3.3 As explained in Section 2 above, paragraph 102(2) of the New Code would require Ofcom to prepare and publish standard terms which may (but need not) be used in agreements under the New Code.
- 3.4 In preparation for the coming into force of the DEB, we have therefore prepared (and are now consulting on) a set of standard terms which could be used by parties seeking to reach agreement on the conferral of Code rights under the New Code. A draft of these standard terms can be found in **Annex 6**.
- 3.5 In order to assist in the preparation of these standard terms, we asked members of the Code of Practice Drafting Group if they would be willing to share copies of their template Code agreements with us. A number of members shared their agreements with us and we have drawn upon these in order to draft the standard terms on which we are now consulting.
- 3.6 When preparing these standard terms, we have been mindful of the views and recommendations of the Law Commission.<sup>14</sup> In particular, the Law Commission explained, amongst other things, that standard terms would be useful on the basis that they could give a starting point for negotiations, but could be amended as necessary to meet particular circumstances. It considered that, at a most basic level, standard terms could assist parties, particularly landowners, to ensure that important terms are not forgotten.
- 3.7 We recognise that some parties may consider it would be useful if Ofcom were to prepare more than one set of standard terms. However, after careful consideration, our provisional view is that this is not necessary and that the value (if any) of us preparing more than one set of terms would be limited.
- 3.8 We note that the DEB does not require Ofcom to prepare more than one set of standard terms. Further, as the Law Commission recognised, Code agreements will, in practice, cover an extremely wide range of circumstances; the technology to be installed, the physical characteristics of the site and the preferred approach and

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<sup>14</sup> [The Law Commission, The Electronic Communications Code, 27 February 2013, pages 203 – 205.](#)

sophistication of the parties to the agreement will often differ significantly. For Ofcom to prepare a variety of standard terms which suit each type of technology, site, operator and landowner/occupier would be a significant task and it is not clear to us that this would be of benefit to Code Operators and landowners/occupiers.

- 3.9 In this regard, and as noted above, the purpose of the standard terms is to provide parties with a starting point for their negotiations, rather than to provide a final set of terms for all parties. We anticipate that many experienced site providers and Code operators may prefer to use their own terms and that, for more complex transactions, parties are likely to seek independent legal advice in order to ensure that their Code agreement is properly tailored to their specific circumstances. In addition we are also aware that there are other sources of standard terms and conditions that have been developed through consultation between interested parties. A good example of this would be the multi-occupant office building wayleave agreement developed for the City of London.<sup>15</sup>

2. Do you have any comments on the scope or drafting of the standard terms, as set out in Annex 6?

## Draft template notices

- 3.10 In certain circumstances, the New Code proposed in the DEB requires Code operators, landowners/occupiers and other parties to provide notice to one another. For example, a Code operator would be required to notify a transport undertaker of its intention to carry out non-emergency works on transport land under paragraph 48(1) of the New Code.
- 3.11 As explained in Section 2 above, paragraph 89 of the New Code currently provides that, where a provision in the New Code “requires a notice to be given”, Ofcom must prescribe the form of that notice.
- 3.12 Where the form of a notice is prescribed by Ofcom, paragraphs 87(2) and 88(2) of the New Code would require that, to be valid, notices given by Code operators and certain notices given by other parties must be in the prescribed form. However, paragraphs 88(5) and (6) envisage that certain other notices may be given in a form other than that prescribed by Ofcom (subject to the party giving the notice bearing the other party’s resulting costs, if any).
- 3.13 In preparation for the coming into force of the DEB, we have therefore prepared (and are now consulting on) a number of template notices for use between Code Operators and other parties. Drafts of each of the notices that we propose to prescribe can be found in **Annex 7**.<sup>16</sup>

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<sup>15</sup> City of London, [Digital Infrastructure Toolkit, standardised wayleave agreement](#), accessed 15 March 2017 – this document is reviewed and updated on a regular basis and will be amended to reflect the provisions of the Digital Economy Bill once it comes into force.

<sup>16</sup> For convenience, we note that we are proposing to prescribe notices under the following paragraphs of the New Code: paragraph 15(5); paragraph 19(2); paragraph 25(3); paragraph 26(1); paragraph 30(1); paragraph 32(1); paragraph 38(1); paragraph 38(2); paragraph 39(2); paragraph 40(2); paragraph 40(5); paragraph 42(5); paragraph 48(1); paragraph 49(2); paragraph 49(3);

- 3.14 We recognise that, in a number of instances, the notices that we are proposing to prescribe are discretionary (i.e. they ‘may’, but are not required to, be given – see the wording of the New Code at paragraph 3.11 above). However, we have interpreted our proposed obligation under paragraph 89 of the New Code expansively and sought to provide drafts of standard notices even where they are not strictly required by the New Code. We hope that Code Operators and landowners/occupiers alike will consider this useful, and that this will facilitate a smooth transition to the New Code regime.
- 3.15 However, we note that in a very limited number of cases, there is likely to be limited (if any) value in Ofcom prescribing the form of a discretionary notice. In particular, we consider that there would be little value in Ofcom prescribing the form of notices under paragraphs 31(1)<sup>17</sup> and 38(4)<sup>18</sup> of the New Code as the contents of any such notices would be highly fact-specific and we would expect Code Operators to be able to easily prepare these. We are not therefore proposing to prescribe the form of any standard form notices under these specific paragraphs of the New Code.
- 3.16 In preparing the standard notices set out in Annex 7, we have been mindful of the need to ensure that they are as clear and concise as possible, as well as the need for Code Operators to comply with paragraph 87(1) of the New Code when giving notice (i.e. that they explain the effect of the notice and the steps that may be taken by recipients).
- 3.17 We have also been mindful of the fact that, whilst Code Operators may be familiar with the New Code, this may not necessarily be the case for landowners/occupiers. We have therefore sought to provide helpful ‘Notes’ or guidance, particularly for landowners/occupiers, at the end of a number of the notices which should assist them when sending or receiving notices under the New Code.

*3. Do you agree that Ofcom has identified all of the notices it is required to prepare under paragraph 89 of the New Code?*

*4. Do you have any comments on the scope or drafting of these notices as set out in Annex 7?*

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paragraph 50(2); paragraph 50(4); paragraph 50(7); paragraph 52(1); paragraph 52(2); paragraph 53(7); paragraph 66(1); paragraph 67(2); paragraph 70(2); paragraph 74(2); paragraph 77(1); paragraph 81(3); and paragraph 81(4). As noted in Section 2 above, these paragraph references are based on the version of the New Code included in [HL Bill 102 56/2](#), published on 8 February 2017, which incorporates amendments made up to and including the House of Lords Committee stage.

<sup>17</sup> i.e. a counter-notice from a Code Operator regarding the termination of a Code agreement.

<sup>18</sup> i.e. a notice from a Code Operator disclosing whether apparatus is on land pursuant to a Code right.

## Section 4

# Next steps

## Consultation process

4.1 This consultation will be open for 10 weeks, closing on Friday 2 June 2017

## Final statement

4.2 Our final statement, accompanied by final versions of the Code of Practice, standard terms and template notices, will be published as soon as possible after the New Code (Schedule 1 to the DEB) has been brought into force.

## Review of the Code of Practice

4.3 Paragraph 102(3) of the New Code<sup>19</sup> would enable Ofcom to amend or replace elements of the Code of Practice and accompanying standard terms at the time of its choosing. Accordingly, we are committed to monitoring and reviewing the Code of Practice to ensure that its content remains fit for purpose, appropriate and proportionate in light of on-going developments.

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<sup>19</sup> [Digital Economy Bill, Part 17, Section 102\(3\), page 159](#)

## Annex 1

# Responding to this consultation

## How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, **by 5pm on 2 June 2017**.
- A1.2 We strongly prefer to receive responses via the online form at <https://www.ofcom.org.uk/consultations-and-statements/category-1/electronic-communications-code>. We also provide a cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>) for responses sent by email or post; please fill this in, as it helps us to maintain your confidentiality, and speeds up our work. You do not need to do this if you respond using the online form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [ecc.consultation@ofcom.org.uk](mailto:ecc.consultation@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).

Responses may alternatively be posted to the address below, marked with the title of the consultation.

ECC Consultation Team  
5<sup>th</sup> Floor  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA

- A1.4 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Dan Mount on 020 7981 3050, or email [ecc.consultation@ofcom.org.uk](mailto:ecc.consultation@ofcom.org.uk)
- A1.5 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.6 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.7 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex X. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.8 If you want to discuss the issues and questions raised in this consultation, please contact Dan Mount on 020 7981 3050, or by email to [ecc.consultation@ofcom.org.uk](mailto:ecc.consultation@ofcom.org.uk)

## Confidentiality

- A1.9 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as we receive them.
- A1.10 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.11 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.12 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

## Next steps

- A1.13 Following this consultation period, Ofcom plans to publish a statement later in 2017.
- A1.14 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

## Ofcom's consultation processes

- A1.15 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.16 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## Annex 2

# Ofcom's consultation principles

## Ofcom has seven principles that it follows for every public written consultation:

### Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

### During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.



## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing  Name/contact details/job title

Whole response  Organisation

Part of the response  If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 3

# Consultation questions

## Code of Practice

1. *Do you have any comments in relation to the scope or drafting of the Code of Practice as set out in Annexes 4 and 5?*

## Standard terms

2. *Do you have any comments on the scope or drafting of the standard terms, as set out in Annex 6?*

## Template notices

3. *Do you agree that Ofcom has identified all of the notices it is required to prepare under paragraph 89 of the New Code?*
4. *Do you have any comments on the scope or drafting of these notices as set out in Annex 7?*

# Draft Code of Practice

## Introduction

- 4.4 Electronic communications services (such as landlines, mobile phones and internet services) are now regarded as essential services. In order that these services can be provided where they are needed, The Electronic Communications Code ('ECC') provides a statutory basis whereby communications providers (known in this context as 'Operators'<sup>20</sup>) can place their Apparatus<sup>21</sup> on land or buildings owned by another person or organisation.
- 4.5 In view of the ever increasing and critical needs of local communities (and the UK economy as a whole) to have access to 21st century communications networks, such as high speed broadband connection or a 4G mobile connection (and 5G in due course), the ECC has been reformed under the [Digital Economy Act 2017] so as to make it more straightforward for Operators to gain access to the locations they need, to improve coverage, capability and capacity.

## Purpose of the Code of Practice

- 4.6 The purpose of this Code of Practice, which has also been established under the [Digital Economy Act], is to set out expectations for the conduct of the parties to any agreement made under the ECC. It is not a guide to the ECC or the Code regulations, but it is intended to complement them and to make it simple for Operators and Landowners<sup>22</sup> to come to agreement over a range of issues relating to the occupation of a site. Agreements under the ECC are binding and so Landowners may wish to consider seeking independent professional advice before entering into such an agreement (see below).
- 4.7 'Site' in this Code of Practice is used in a broad sense<sup>23</sup> as any place to install Apparatus, such as under or on top of open land, the rooftop of a building, a tunnel or a lamp-post.
- 4.8 All parties to whom this Code of Practice applies should treat each other professionally and with respect, remembering always that the goal is to improve and maintain essential communications services for all. Landowners and Operators must respect the needs and legitimate concerns of occupiers of land when rights under the ECC are exercised. Operators will be responsible for the behaviour and conduct of any contractors that they instruct to carry out work on their behalf.

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<sup>20</sup> An Operator is an organisation which has been granted Code Powers by Ofcom, for example, a communications provider that is providing a landline, broadband, cable or mobile network, or a person who provides infrastructure which supports such a network. A list of those with Code Powers is maintained by Ofcom.

<sup>21</sup> 'Apparatus' is a broad term and refers to what is defined in the ECC as electronic communications apparatus; it includes such items as antennae for mobile signals, masts, cabinets, cables, ducts and telegraph poles.

<sup>22</sup> The person with the lawful right to enter into an agreement with an Operator

<sup>23</sup> 'Site' is equivalent to the term 'Land' in the ECC, as set out in paragraph 108.

## Scope

### 4.9 This Code of Practice:

- Provides a reference framework to support Landowners and Operators to establish, develop and maintain effective working relationships, to the benefit of users of all communications services;
- Sets out what Landowners and Operators should expect from each other in the context of:
  - Establishing new agreements for the installation of apparatus;
  - The ongoing access to and operation, maintenance and upgrading of existing sites and apparatus;
  - The decommissioning of sites that are no longer required;
  - The redevelopment of sites;
- Provides a framework for site provision, whereby the commercial process of coming to an agreement, and of maintaining an agreement, can take account of all the practical requirements of both parties;
- Sets out clear lines of communication through which disputed matters can be escalated;
- Does **not** address the financial aspects of the relationship between the Landowner and the Operator

4.10 While the Code of Practice sets out some clear principles and expectations about how Landowners and Operators should behave towards each other, it should be noted that there are some special regimes in place (e.g. transport land, public maintainable highway and tidal waters), where different specific considerations may apply.

4.11 The Code of Practice covers a wide range of scenarios, from the construction of a full mobile mast to the installation of just one telegraph pole or a very small length of cable and it should be noted that not all the procedural elements will be required in each and every case.

## Communication and contact information

4.12 Central to the purpose of this Code of Practice is the maintenance of good communications between the parties in order to facilitate good working relationships.

### Keeping contact information up to date

4.13 The Operator should ensure that the Landowner and any relevant Occupier of the site or of access routes to the site have **up-to-date contact information** available to them, so that the Landowner can easily assess which point of contact to use in all the circumstances which may arise, such as:

- In the event of an emergency

- For routine estate or management issues
- To change or confirm access arrangements

4.14 In turn, the Landowner and Occupier should ensure that the Operator is provided with current contact information (and is notified of any changes to phone numbers e-mail addresses etc.) so that the Operator knows which point of contact to use in all the circumstances which may arise.

### **Professional advice**

4.15 Landowners and Operators may choose to negotiate directly with each other. Alternatively, the parties may wish to seek professional advice from a suitably qualified and experienced person such as a surveyor or valuer. This could also include taking legal advice before concluding an agreement<sup>24</sup>.

4.16 An adviser's fees are a matter to be agreed in advance as part of the adviser's terms of engagement.

4.17 In all cases, both Operators and Landowners will act in a consistent, fair and open manner with each other in relation to any proposed works.

### **New agreements for the installation of Apparatus**

4.18 Additional Apparatus can be required for a number of reasons, such as:

- Customer demand
- To provide coverage to new areas
- To provide additional network capacity
- To provide new services
- To replace obsolete sites or sites that are being redeveloped

4.19 Where new apparatus needs to be deployed, the Operators will follow a sequence of steps, depending on the nature of the apparatus to be installed. For minor installations of apparatus (for example, the placement of a telegraph pole), agreement can be reached on standard terms and conditions and without the need for a site visit. For more complex situations (such as a new mobile mast), a site visit may be required to assess the suitability of the location and to find out other background information.

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<sup>24</sup> A list of such advisers can be provided by professional bodies such as Central Association of Agricultural Valuers, Law Society, Law Society for Scotland, Royal Institution of Chartered Surveyors and Scottish Agricultural Arbiters and Valuers Association

## **Stage 1: Site Survey**

- 4.20 Once it has been determined that new Apparatus is required in a given area, the Operator will identify various options for new sites and survey possible solutions based on technical and planning considerations.
- 4.21 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 Landowners may be required.
- 4.22 Where access is necessary, the Operator should request such access in writing, covering the matters set out in Annex A, where relevant. The Operator will generally request that access is given within a reasonable period (e.g. this may be a period of around 7 days). The access request will set out the nature of the visit and a basic outline of the proposed installation/s.
- 4.23 To ensure the site survey is productive, the parties may choose to meet on site. At the appropriate moment in the assessment process, the Landowner, on the Operator's request, should seek to provide relevant information such as:
- Who owns/occupies the site;
  - 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

## **Stage 2: Consultation and agreement**

- 4.24 The type of apparatus that can be deployed on, over or under a site can vary enormously. It could include, for example:
- A telegraph pole being placed in a field;
  - A cable being laid in an existing duct in a shopping centre;
  - An antenna system for mobile coverage being installed on the roof of an office block;
  - A lattice tower being erected in a wood
- 4.25 Each of these examples could require different consultation processes.

- 4.26 When a suitable location has been identified for the installation of apparatus, the Operator will proceed to secure any necessary consents for the site, in accordance with relevant regulations, consulting with the Local Planning Authority, and other parties, where required, and any applicable guidelines or codes of practice<sup>25</sup>.
- 4.27 Where a proposal is straightforward, with standard apparatus, such as a single cabinet or pole, the Operator may send the Landowner a simple written agreement with a request to sign it and return. Where the proposal is less simple, the Operator may send a summary of the proposed terms of an agreement for the Landowner to consider and review. In such cases the documentation may include, for example, a plan showing the proposed design, access routes and cable routes; loading calculations for rooftop sites; and proposals for electricity provision.
- 4.28 Before concluding an agreement, the Landowner and Operator should agree access arrangements for construction, installation, subsequent planned maintenance, upgrades and emergency maintenance to repair service affecting faults. The topics to be covered in the access arrangements are set out in **Annex B**.
- 4.29 Although the ECC provides a mechanism for the court to impose terms of occupation on the Landowner and the Operator, the parties should make every effort to reach voluntary agreement first.
- 4.30 Whilst some agreements should be expected to be completed within a matter of weeks, and some simple cases may even be signed on site during the survey stage, agreements for larger or more complex arrangements may take longer, but in all cases the parties should endeavour to respond promptly to correspondence from the other side and aim to complete the process as swiftly as possible.
- 4.31 In the absence of terms being agreed between the parties within a reasonable time frame, the ECC provides for a process whereby a court can impose the terms of occupation and/or the conferring of code rights pursuant to paragraph 19 of the ECC. It must be emphasised, though, that one of the principal purposes of this Code of Practice is to establish a voluntary process, which avoids recourse to the courts.

### **Stage 3: Deployment stage**

- 4.32 When the Operator is carrying out works on a Landowner's property it will endeavour to cause minimal disruption and inconvenience. The operator should notify the Landowner of the following:
- Contact details for the Operator, the name of the contractor managing the scheme and also the person to whom the Landowner can escalate any matters of concern
  - Drawings detailing the apparatus to be deployed with an accompanying written description of the works

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<sup>25</sup> For example: Code of Best Practice on Mobile Network Development in England, <http://www.mobileuk.org/codes-of-practice.html>

- Any requirement to be able to have access across other land (whether belonging to the Landowner or a third party)
  - Timing of the work, including the estimated start date and duration of the works
  - Working times
  - Procedures for safeguarding the Landowner's property (e.g. livestock)
- 4.33 Where applicable, the Operator will retain a dated photographic record of the condition of the site prior to the commencement of works and on completion of the works

### Neighbours and other occupiers

- 4.34 Persons with an interest in land adjoining a proposed site may need to be consulted in accordance with national regulations, guidelines and any applicable Codes of Practice<sup>26</sup>.
- 4.35 Operators must also negotiate access arrangements with the owner and/or occupier of land adjoining a site, where use of that land is required for either constructing and/or maintaining the site (using ECC powers, if no agreement can be reached).
- 4.36 Any requirement for access by the Operator with respect to such adjoining land shall cover the matters set out in Annex B (i.e. the same considerations as for the Landowner, where applicable).

### The ongoing access to and operation, maintenance and upgrading of existing sites and apparatus

- 4.37 All electronic communications sites are an integral part of a wider network. Individual sites variously provide coverage, capacity and functionality to that wider network and Operators require access to their apparatus in order to be able to maintain a quality of service to their customers. In the case of service affecting faults, access will be required as soon as possible.
- 4.38 As set out in Stage 2 Consultation Phase, any agreements between the Operator and the Landowner must set out how to access sites for operational needs. The matters to be covered in relation to access are set out in **Annex B**. Where necessary, Operators and Landowners should meet, prior to entering into a contract, to discuss preferred access routes and processes and agree clear expectations as to what will happen when access is required.
- 4.39 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, in order to resolve the issue and maintain service for customers, including the ability

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<sup>26</sup> For example: Cabinet and pole siting Code of Practice, and The Code of Best Practice on Mobile Network Development in England, <http://www.mobileuk.org/codes-of-practice.html>



to make calls to the emergency services. Wherever possible, Operators will contact the Landowner to explain when and why access was required and Landowners will seek to cooperate with the restoration of service.

- 4.40 Access for routine maintenance should be organised so that Operators can give sufficient notice in accordance with the access arrangements agreed with the Landowner.
- 4.41 Where Operators are physically sharing a site, and no additional consents are required under the ECC, the Operators will nevertheless notify Landowners of the name of other sharers, so that the Landowner, for security purposes, can know who is in lawful occupation of the site.
- 4.42 Where access may be required to other parts of the land owned by the Landowner, such as where an area of land is required to use a crane or cherry picker, the access arrangements should cover such scenarios and provide that the Operator will return the land to the condition it was in prior to the land being used or accessed.
- 4.43 Operators will seek to ensure that anyone accessing a site on their behalf:
- Carries photographic identification
  - Can explain why they are there and for whom they are working
  - Can advise Landowners who to contact within the Operator for more information or to comment on any visit
- 4.44 Operators shall, upon request, provide verification of which contractor was on site at any given point in time and confirmation of why they were there – e.g. To inspect, maintain and effect an emergency repair or physical upgrade etc.
- 4.45 Operators will adhere to any national requirements for managing location specific risks. This might include notifiable diseases (such as Foot and Mouth, Avian Flu etc.). For sites at sensitive locations, it might include arranging accompanied access to secure areas. Operators will comply with any reasonable procedures implemented by Landowners for these purposes. Landowners will, so far as is possible, preserve the ability for Operators to access their apparatus, particularly in the case of operational emergency.

## **Decommissioning sites that are no longer required**

- 4.46 The ECC makes provision for Landowners to request the removal of apparatus, if it is not being used and there is no prospect of it being so.
- 4.47 As a general principle, Operators will ensure that redundant sites are decommissioned within a reasonable period after use ceases. However, in the case of apparatus below ground (such as ducts for cables), it may be preferable to the parties for the Apparatus to be made safe and left in place. Operators should discuss decommissioning proposals with Landowners in order to agree the way to proceed.
- 4.48 When requested to remove redundant apparatus by a Landowner, the Operator will, within a reasonable time, respond, either by explaining that the apparatus will still be needed or by setting a date by when the apparatus will be made safe or removed, and the site reinstated, if relevant.

## Other

### Renewal of existing sites and the ECC

- 4.49 When an existing site agreement is due to expire, the parties will seek to agree terms for the continued use of the site before the existing agreement comes to an end.
- 4.50 Parties should commence negotiations sufficiently far in advance of the expiry of an existing agreement to allow adequate time for terms to be agreed. On many occasions, the existing terms may not need to be changed, and so the timeframe to agree new terms will be short.

### Repairs to a Landowner's property

- 4.51 From time to time, Landowners will have to carry out essential repairs to their property and it may be necessary for apparatus to be moved temporarily to effect such repairs. In such circumstances, the parties will negotiate in good faith so as to allow the works to be completed, so that any resultant interruption to public communications services is kept to a minimum.

### Redevelopment by the Landowner

- 4.52 The ECC makes for provision for Landowners to redevelop their property (Paragraphs 30-31), requiring that the Landowner should give 18 months' notice of the intention to redevelop. Paragraphs 30-31 of the ECC are intended for use by Landowners who genuinely intend to redevelop their property (as evidenced, for example, by an applicable planning consent). Landowners are encouraged to give Operators as much prior notice as possible, in order that adequate time can be afforded to allow the Operator to identify alternative suitable sites.
- 4.53 Operators may request to see evidence of the plans to redevelop but they should act reasonably at all times, so as not to hinder the Landowner's progress. For example, Operators should act in a timely manner to locate suitable new sites with the principal aim that communications services in a locality can be maintained, with the minimum of disruption to the users.
- 4.54 Where a Landowner is progressing a redevelopment opportunity, consideration should be given to incorporating the communications apparatus within the Landowner's property if this is a viable option.

### Escalation procedures

- 4.55 The ECC sets out formal dispute resolution procedures.
- 4.56 Nevertheless, where disputes arise, the parties should seek to resolve them informally (i.e. without recourse to litigation) in the first instance. There may be occasions, though, where one party or the other may need to serve legal notices, while still continuing to pursue an informal resolution.
- 4.57 To facilitate this process, Operators and Landowners will make available to each other, and, where applicable, those with an interest in adjoining land, contact details for the relevant person, through whom matters of dispute can be raised. Those matters may include failure to abide by the Code of Practice.



## Annex 5

# Schedules to the Code of Practice

## Schedule A – Requesting access for a survey

4.58 An Operator wishing to access land for the purpose of surveying its suitability for siting electronic communications apparatus should contact a potential landowner and provide the following information:

- Identity of operator, points of contact for operator and any agent
- Areas of search for possible installation of apparatus
- Requirements for initial survey:
  - What access is required?
  - With what apparatus?
  - Over what timescale?
- Description of likely apparatus and any ancillary links required, for example power connections
- Confirmation of whether planning consent would be required
- Likely impact of apparatus on the site and/or adjoining land, for example line of sight requirements, possible interference with existing equipment etc.
- Type of agreement sort (e.g. temporary or long-term)
- Proposed timescale for construction/installation
- The letter may also include information about what action an Operator might take, in the event that the Landowner fails to respond

4.59 In some instances, though, when an Operator is surveying at a neighbouring property, and it becomes apparent that the Apparatus would be better suited on an adjoining property, it may possible to agree with the Landowner to complete a survey immediately and then follow-up in writing once the survey has been completed.

## Schedule B – Key points for access arrangements

4.60 Access arrangements should cover the following points, where appropriate<sup>27</sup>:

- Contact details (including in emergencies) for:

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<sup>27</sup> Note: for many fixed line installations, this will be covered an Operators standard wayleave

- The Operator
- The Landowner
- Any occupier of the land, if different from the Landowner
- Description of access arrangements (including any out of hours or weekend factors (e.g. for business premises that are closed at the weekend))
- Recovery of reasonable costs (e.g. if a supervisor is necessary at sensitive locations)
- An undertaking from the Operator to make good any damage to the Landowner's property
- Notifying the Operator of any site-specific considerations, for example:
  - Requirements for supervision at sensitive or hazardous sites
  - Bio-security arrangements
  - Any relevant environmental schemes (where care has been taken not to contravene the rules of the scheme)
- Parking and access routes across land or through buildings for construction and maintenance personnel, vehicles, equipment and apparatus
- Adherence to the Countryside Code, where relevant

Annex 6

# Draft Standard Terms

[Name of Grantor]

and

[Name of Operator]

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CODE AGREEMENT

relating to the installation of electronic communications  
apparatus at [address]

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This Agreement is made on **[Insert date]** between:

- (1) **[Insert name]**, whose **[address/registered office]** is at **[Insert address]** (the “Grantor”); and
- (2) **[Insert name]**, whose registered office is at **[Insert address]** (the “Operator”).

## RECITALS

- (A) The Code (as defined in clause 1) facilitates the deployment of electronic communications apparatus by persons in whose case it is applied.
- (B) The Code has been applied to the Operator by virtue of a direction under section 106 of the Communications Act 2003.
- (C) The Grantor is the occupier of certain land.
- (D) This Agreement is an agreement pursuant to paragraph 9 of Part 2 of the Code. It sets out the contractual basis upon which the Grantor is willing to confer code rights in respect of that land on the Operator.

## IT IS AGREED AS FOLLOWS:

### 1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement, the following words shall have the following meanings:

“**Act**” means the Communications Act 2003;

“**Apparatus**” means the Electronic Communications Apparatus described in Schedule 1, and shall be deemed to include any future alterations to or upgrades of the Apparatus that are made in accordance with this Agreement and/or pursuant to the Code;

“**Code**” means the electronic communications code set out at Schedule 3A to the Act;

“**Code Rights**” means the rights set out at clause **[2.1]**;

“**Electronic Communications Apparatus**” shall have the meaning ascribed to that term in paragraph 5 of the Code;

“**Land**” means the land at **[insert address]** **[and marked on the plan attached at Schedule 2]**;

“**Operator**” means any person in whose case the Code is applied by a direction under section 106 of the Act; and

“**Term**” means the period of time during which this Agreement is in force.

1.2 In this Agreement, unless expressly stated otherwise:

- (a) a reference to either party includes that party's employees, agents and sub-contractors;
- (b) a reference to any statute or statutory provision includes that statute or statutory provision as amended, re-enacted, consolidated or replaced;
- (c) a reference to a clause or schedule is to the relevant clause or schedule of this Agreement;
- (d) words importing the singular shall include the plural, and vice versa.

## 2. RIGHTS OF THE OPERATOR

2.1. In consideration of the covenants set out at clause [4] of this Agreement [and payment of the sum set out at clause [3]], the Grantor hereby agrees that the Operator shall have the right for the Term:

- (a) to install the Apparatus on, under or over the Land;
- (b) to keep installed the Apparatus which is on, under or over the Land;
- (c) to inspect, maintain, adjust, alter, repair, operate or (subject to clause [2.3]) upgrade the Apparatus which is on, under or over the Land;
- (d) to carry out any works on the Land for or in connection with the installation of the Apparatus on, under or over the Land [or the installation of Electronic Communications Apparatus elsewhere];
- (e) to carry out any works on the Land for or in connection with the maintenance, adjustment, alteration, repair, operation or (subject to clause [2.3], the upgrading of the Apparatus which is on, under or over the Land [or any Electronic Communications Apparatus elsewhere];
- (f) to enter the Land to inspect, maintain, adjust, alter, repair, operate or (subject to clause [2.3]) upgrade the Apparatus which is on, under or over the Land [or any Electronic Communications Apparatus elsewhere];
- (g) to connect the Apparatus to a power supply;
- (h) to interfere with or obstruct a means of access to or from the Land (whether or not the Apparatus is on, under or over the Land);
- (i) to lop or cut back, or require another person to lop or cut back, any tree or vegetation that interferes or will or may interfere with [any Electronic Communications Apparatus/the Apparatus],



(together, the “Code Rights”).

2.2. Subject to clause [2.3], the Operator may also share the use of the Apparatus with another Operator, and carry out any works to the Apparatus to enable that sharing to take place.

2.3. The Operator may only upgrade or share the Apparatus (and exercise the associated rights set out in clauses [2.1(e), 2.1(f) and 2.2]) if:

- (a) any changes to the Apparatus as a result of the upgrading or sharing have no adverse impact, or no more than a minimal adverse impact, on its appearance;
- (b) the upgrading or sharing does not impose any additional burden on the Grantor, including:
  - (j) anything that has an additional adverse effect on the Grantor’s enjoyment of the Land; or
  - (ii) anything that causes additional loss, damage or expense to the Grantor.

2.4. The right of entry set out in clause [2.1(f)] may be exercised by the Operator with or without workmen, vehicles (where appropriate), plant equipment or machinery.

### 3. [PAYMENT

The Operator agrees that it will pay to the Grantor, in respect of this Agreement, the sum of [Insert amount] pounds (£[Insert amount]) [per annum / for the Term].]

### 4. OPERATOR’S OBLIGATIONS

4.1. The Operator covenants with the Grantor that it will:

- (a) save in the event of an [emergency<sup>28</sup>], give the Grantor not less than seven days’ prior written notice of its intention to enter the Land;
- (b) in the event of an [emergency], seek to contact the Grantor (which may be by electronic or verbal communication) as soon as reasonably practicable to inform him:
  - i) that the Operator intends to enter the Land, or has entered the Land;
  - ii) why entry is or was required; and
  - iii) when entry took place or is intended to take place.

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<sup>28</sup> The parties may wish to define what constitutes an “emergency”.

- (c) otherwise exercise its right to enter the land in accordance with the access arrangements set out in Schedule [3] to this Agreement;
- (d) exercise its Code Rights in a proper and workmanlike manner taking all reasonable precautions to avoid obstructions to, or interference with, the use of the Land or any adjoining land and so as to cause as little damage, nuisance and inconvenience as possible to the Grantor and any occupiers of any adjoining land;
- (e) do as little physical damage as is reasonably practicable in exercising its Code Rights and, as soon as reasonably practicable, make good to the reasonable satisfaction of the Grantor all resulting damage caused to the Land or any adjoining land;
- (f) exercise its Code Rights and use and operate the Apparatus in accordance with all applicable legislation;
- (g) obtain and maintain in force any necessary consents for the installation and retention of the Apparatus, provide evidence of any such consents upon demand to the Grantor and carry out all works in accordance with such consents;
- (h) maintain and keep the Apparatus in good repair and condition and so as not to be a danger to the Grantor, its employees or property, or the occupiers or any adjoining land;
- (i) pay all rates or other charges that may be levied in respect of the Apparatus or the exercise of its Code Rights; and
- (j) maintain insurance with a reputable insurance company against any liability to the public or other third party liability in connection with any injury, death, loss or damage to any persons or property belonging to any third party arising out of the exercise by the Operator of the rights granted under this Agreement, and provide details of such insurance and evidence that it is in force to the Grantor upon reasonable request.

## **5. THE GRANTOR'S OBLIGATIONS**

5.1. The Grantor agrees that it will:

- (a) not build or place anything on the Land, or permit any third party to do the same, that makes it more difficult for the Operator to access the Apparatus, or which might interfere with the Apparatus, without the Operator's express written consent (which should not be unreasonably withheld);
- (b) not cause damage to or interfere with the Apparatus or its operation and not permit any third party to do the same; and
- (c) give reasonable prior written notice to the Operator of any action that it intends to take that would or might affect the continuous operation of the Apparatus,

including (but not limited to) causing an interruption to any power supply to which the Apparatus is connected.

## 6. OWNERSHIP OF THE APPARATUS

The Apparatus shall remain the absolute property of the Operator at all times.

## 7. GENERAL

- 7.1. It is agreed that no relationship of landlord and tenant is created by this Agreement between the Grantor and the Operator.
- 7.2. This Agreement will not apply to any part of the Land which is or (from the date of such adoption) becomes adopted as highway maintainable at the public expense.
- 7.3. In the event of any inconsistency between this Agreement and any provision of the Code, the Code will prevail.

## 8. INDEMNITY FOR THIRD PARTY CLAIMS

8.1. The Operator will indemnify the Grantor up to a maximum of [£1 million / £3 million / £5 million] [per annum / in aggregate in respect of a claim or series of claims arising from the same incident] against any third party actions, claims, costs, proceedings or demands (“**Third Party Claim**”) arising as a result of any act or omission by the Operator in exercising its rights under this Agreement, except to the extent that the Grantor’s acts or omissions have caused or contributed to any such Third Party Claim and provided that:

- (a) the Grantor shall as soon as reasonably practicable give notice in writing to the Operator of any Third Party Claim brought, made or threatened against the Grantor;
- (b) the Grantor shall not compromise or settle such Third Party Claim without the express written consent of the Operator (which shall not be unreasonably withheld or delayed);
- (c) the Grantor shall permit the Operator to defend any Third Party Claim in the name of the Grantor at the expense of the Operator.

## 9. LIMITATION OF LIABILITY

9.1. Nothing in this Agreement limits or excludes the liability of either party:

- (a) for death or personal injury resulting from its negligence;
- (b) for any damage or liability incurred as a result of fraud or fraudulent misrepresentation by that party; or
- (c) where or to the extent that it is otherwise prohibited by law.

- 9.2. Subject to clause [9.1], the Operator's liability under this Agreement to the Grantor shall be limited to the sum of [Insert amount] pounds (£[Insert amount]) [per annum/in aggregate]. This limitation of liability shall not apply to the indemnity granted under clause [8.1].
- 9.3. Subject to clause [9.1], the Grantor's liability under this Agreement to the Operator shall be limited to the sum of [Insert amount] pounds (£[Insert amount]) [per annum/in aggregate in respect of a claim or series of claims arising from the same incident].

## 10. TERMINATION

10.1. The Grantor may terminate this Agreement<sup>29</sup> by giving the Operator [thirty (30)] days' notice in writing if:

- (a) the Operator is in [material/substantial] breach of any of its obligations under this Agreement and:
  - i) the breach is incapable of remedy; or
  - ii) the Operator has failed to remedy the breach within [thirty (30)] days after the Grantor notifies the Operator of the breach;
- (b) the Operator has persistently delayed making payments due to the Grantor under the terms of this Agreement;
- (c) the Grantor intends to redevelop all or part of the Land or any neighbouring land, and could not reasonably do so unless this Agreement comes to an end; or
- (d) both:
  - i) the prejudice caused to the Grantor by the continuation of the Agreement is incapable of being adequately compensated by money; and
  - ii) the public benefit likely to result from the continuation of the Agreement does not outweigh the prejudice to the Grantor.

10.3 The Operator may terminate this Agreement by giving the Grantor [x days / months] notice in writing.

10.4 On termination of this Agreement (except where the Agreement continues in accordance with paragraph 29(2) of the Code), the Operator will as soon as

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<sup>29</sup> Please note that, if the Grantor exercises any of these termination rights, the agreement will nevertheless continue under paragraph 29 of the Code, unless the Grantor also gives 18 months' notice to terminate under paragraph 30 of the Code.

reasonably practicable remove the Apparatus from the Land and make good any damage to the Land caused by its removal to the reasonable satisfaction of the Grantor.

## **11. ASSIGNMENT**

- 11.1. The Operator may assign this Agreement to another Operator who will be bound by its terms with effect from the date of the assignment.
- 11.2. The Operator will not be liable for any breach of this Agreement occurring on or after the date of the assignment if:
- (a) the Grantor is given written notice of the name of the Operator assignee and its address for the purposes of clause [15.2]; and
  - (b) that notice was given prior to the breach occurring.

## **12. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

Unless expressly stated, nothing in this Agreement will create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **13. ENTIRE AGREEMENT**

This Agreement is the entire agreement between the Grantor and the Operator relating to the Apparatus at the Land.

## **14. SEVERANCE**

Each provision of this Agreement will be construed as a separate provision and if one or more of them is considered illegal, invalid or unenforceable then that provision will be deemed deleted but the enforceability of the remainder of this Agreement will not be affected.

## **15. NOTICES**

- 15.1. Any notice given under this Agreement must be in writing and signed by or on behalf of the person giving it.
- 15.2. Any such notice will be deemed to have been given if it is personally delivered or sent by registered, recorded or first class post, and (in each case) addressed:
- (a) to the Grantor at  
[insert address]  
[marked for the attention of [insert name]]
  - (b) to the Operator at:

[insert address]  
[marked for the attention of [insert name]]

- 15.3 Following the execution of this Agreement, either party may amend its address for the purposes of clause [15.2] by notice to the other party.
- 15.4 Each party agrees that the address set out in clause [15.2] (as it may be subsequently amended under clause [15.3]) will also constitute their address for service for the purposes of paragraph 87(2)(a) of the Code.

## 16. MEDIATION

- 16.1. If any dispute arises in connection with this agreement, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the [Centre for Effective Dispute Resolution (“CEDR”) Model Mediation Procedure]. To initiate the mediation a party must give notice in writing (“ADR notice”) to the other party to the dispute, referring the dispute to mediation. A copy of the referral should be sent to [CEDR]. Unless otherwise agreed between the parties, the mediator will be nominated by [CEDR] within [14] days of notice of the dispute.
- 16.2. Unless otherwise agreed, the mediation will start not later than [28] days after the date of the ADR notice. [The commencement of a mediation will not prevent the parties commencing or continuing court proceedings]
- 16.3. [No party may commence any court proceedings in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay].

## 17. GOVERNING LAW AND JURISDICTION

- 17.1. This agreement is governed by, and shall be construed in accordance with, the laws of England and Wales.
- 17.2. [Subject to clause 16] the parties agree to submit to the exclusive jurisdiction of the [courts of England/sheriff in Scotland] as regards any disputes or claims arising out of this Agreement.

Signed for and on behalf of [Grantor] by:

\_\_\_\_\_ Signature

\_\_\_\_\_ Name

\_\_\_\_\_ Date

Signed for an on behalf of [**Operator**] by:

\_\_\_\_\_ Signature

\_\_\_\_\_ Name

\_\_\_\_\_ Date

**SCHEDULE 1  
THE APPARATUS**

*[Insert description of the electronic communications apparatus to be installed]*



**[SCHEDULE 2**

**THE LAND]**

*[Insert plan showing location of the Land]*

**SCHEDULE [3]**

**ACCESS ARRANGEMENTS**

*[To be agreed between the parties – see Schedule B of the ECC Code of Practice]*

**Annex 7**

# Draft Template Notices

**STATUTORY NOTICE**  
**OF THE ASSIGNMENT OF AN AGREEMENT UNDER THE ELECTRONIC**  
**COMMUNICATIONS CODE**

**Paragraph 15(5) of Part 3 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 15(5) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup>
2. [*Insert name of Code operator*] (“**we**” or “**us**”) are currently party to an agreement under Part 2 of the Code with you, [*Insert name of site provider*] (the “**Agreement**”). Under the Agreement, you agreed to [*confer / be bound by*] a number of Code rights in order to facilitate the deployment by us of our [*electronic communications network / infrastructure system*]. These Code rights relate to land occupied by you at [*Insert address*].
3. The purpose of this notice is to inform you that, on [*Insert date*], we assigned the Agreement to [*Insert name of assignee*] (the “**Assignee**”). This means that we have transferred the benefit of the Code rights [*conferred by / binding on*] you under the Agreement to the Assignee, and the Assignee is (from the date of the assignment) bound by the terms of the Agreement.
4. Please note that, from the date on which this notice has been given to you, we will not be liable for any breach of a term of the Agreement (unless that breach took place before the date on which this notice was given to you). As a result, should you have any concerns in the future about the exercise of Code rights on your land, please contact the Assignee.
5. The contact address for the Assignee is [*Insert*].
6. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[*Insert date of Notice*]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

**STATUTORY NOTICE**  
**SEEKING AGREEMENT TO THE CONFERRAL OF RIGHTS UNDER THE ELECTRONIC COMMUNICATIONS CODE**

Paragraph 19(2) **[and Paragraph 26(1)]** of Part 4 of Schedule 3A of the Communications Act 2003

**IMPORTANT NOTICE**  
**If you are willing to enter into a Code Agreement, you should respond within 28 days**

1. This is a statutory notice pursuant to paragraph 19(2) **[and paragraph 26(1)]** of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup>
2. This notice has been issued by **[Name of Code operator]** (“**we**” or “**us**”) to you, **[Insert name]**, because we would like to **[insert brief description of rights sought, e.g. to install apparatus and carry out related works]** on land occupied by you for the purposes of our **[electronic communications network and/or infrastructure system]**. We are seeking your agreement to confer these rights on us.

**[OR - delete appropriate version of paragraph 2]**

2. This notice has been issued by **[Name of Code operator]** (“**we**” or “**us**”) to you, **[Insert name]**, because we have certain rights to **[insert brief description of rights already exercisable by operator in relation to the land, e.g. keep apparatus installed on land in relation to which you have an interest]** for the purpose of our **[electronic communications network and/or infrastructure system]**. We are seeking your agreement to be bound by these rights.
3. **[We also require your agreement on a temporary basis in relation to electronic communications apparatus that is already installed on, under or over your land. This is in order to secure that the service provided by our [electronic communications network and/or infrastructure system] is maintained, and the apparatus is properly adjusted and kept in repair.]**

**BACKGROUND**

4. We provide an **[electronic communications network and/or infrastructure system]** in the United Kingdom. This is used in order to provide consumers with **[insert a brief description of the retail services which are dependent on this network and/or infrastructure system (e.g. fixed voice and broadband services)]**.
5. For this purpose, the Office of Communications (OFCOM) has given a direction applying the Code to us. The Code regulates the relationships between us and occupiers of land, thereby facilitating the deployment of electronic communications apparatus.

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## INTERPRETATION

6. In this notice:
  - a. “**Apparatus**” means the electronic communications apparatus described in Annex 1;
  - b. “**Land**” means the [land] at [Insert address / description of land, etc.]; and
  - c. words used but not defined in this Notice shall have the meaning ascribed to them in the Code.

## DETAILS OF THE AGREEMENT WE ARE SEEKING

7. In this notice, we are seeking your agreement [to confer on us / to be bound by] the following rights:
  - a. [the right to install the Apparatus on, under or over the Land];
  - b. [the right to keep installed the Apparatus which is on, under or over the Land];
  - c. [the right to inspect, maintain, adjust, alter, repair, upgrade or operate the Apparatus which is on, under or over the Land];
  - d. [the right to carry out any works on the Land for or in connection with the installation of the Apparatus on, under or over the Land [or the installation of electronic communications apparatus elsewhere]];
  - e. [the right to carry out any works on the Land for or in connection with the maintenance, adjustment, alteration, repair, upgrading or operation of the Apparatus which is on, under or over the Land [or of electronic communications apparatus elsewhere]];
  - f. [the right to enter the Land to inspect, maintain, adjust, alter, repair, upgrade or operate the Apparatus which is on, under or over the Land [or any electronic communications apparatus elsewhere]];
  - g. [the right to connect the Apparatus to a power supply];
  - h. [the right to interfere with or obstruct a means of access to or from the Land (whether or not the Apparatus is on, under or over the Land)]; and
  - i. [the right to lop or cut back, or require another person to lop or cut back, any tree or other vegetation that interferes or will or may interfere with the Apparatus].

(together, the “**Code Rights**”).

8. In addition to the Code Rights, we are also seeking in this notice your agreement to the additional terms set out in Annex 2.
9. [As the electronic communications apparatus described in Annex 3 (the “**Existing Apparatus**”) is already installed on, under or over the Land, we are also seeking your agreement on a temporary basis to [confer/be bound by] the Code Rights set out at paragraph 7 above in respect of the Existing Apparatus (the “**Temporary Code Rights**”).]

## CONSEQUENCES OF NOT REACHING AGREEMENT ON THE CODE RIGHTS

10. If either:
  - a. you do not, before the end of 28 days beginning with the day on which this notice is given, agree [to confer / to be bound by] the Code Rights; or
  - b. at any time after this notice is given, you give notice in writing to us that you do not agree [to confer / to be bound by] the Code Rights,

we will be entitled to apply to the court for an order under paragraph 19(4) of the Code.

11. For more information on the circumstances in which a court may impose such an order, and on the type of agreement that the court may impose, please see the supplementary information at the back of this notice.

### [CONSEQUENCES OF NOT REACHING AGREEMENT ON THE TEMPORARY CODE RIGHTS]

#### 12. If:

- a. you have the right to require the removal of the Existing Apparatus under paragraph 36 or 40(1) of the Code but we are not for the time being required to remove it; and
- b. either:
  - i. you do not, before the end of 28 days beginning with the day on which this notice is given, agree [*to confer / to be bound by*] the Temporary Code Rights; or
  - ii. at any time after this notice is given, you give notice in writing to us that you do not agree [*to confer / to be bound by*] the Temporary Code Rights,

we will have the right to apply to the courts for an order under paragraph 26(2) of the Code. Further detail on these orders is provided in the supplementary information at the back of this notice.

13. We consider that the agreement sought in this notice in relation to Temporary Code Rights is [*not*] a matter of urgency and therefore [*do not*] intend to apply for such an order prior to the end of the 28-day period referred to above.<sup>2</sup>

### YOUR OPTIONS

14. In response to this notice, you may:
  - a. agree [*to confer the Code Rights on us / to be bound by the Code Rights*] [*and/or to confer the Temporary Code Rights on us / to be bound by the Temporary Code Rights*];
  - b. give notice to us that you do not agree [*to confer / to be bound by*] the Code Rights [*and/or the Temporary Code Rights*]; or
  - c. do nothing.
15. In deciding how to respond to this notice, you may wish to seek independent legal advice.
16. If you agree [*to confer the Code Rights on us / to be bound by the Code Rights*], we will send you an agreement reflecting the terms set out in this notice and ask you to sign it. Similarly, if you agree [*to confer the Temporary Code Rights on us / to be bound by the Temporary Code Rights*], we will also send you an agreement reflecting the terms set out in this notice and ask you to sign it. You would be entitled to seek independent legal advice in relation to [*this/these*] agreement[s].

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<sup>2</sup> In limited circumstances, where the court agrees that it is a matter of urgency for an order to be made under paragraph 26(2) of the Code, it may make such an order even though the 28-day period referred to at paragraph [12]a. above has not elapsed (and paragraph [12]b. does not apply).

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17. Alternatively, and as explained at paragraph[s] 10 [and 12] above, if you do nothing or give notice to us that you do not agree [to confer / to be bound by] the Code rights [and Temporary Code Rights], we will be entitled to apply to the court for an order under paragraph 19(4) [and an order under paragraph 26(2)] of the Code.
18. Please submit any notification pursuant to paragraph 14a. or b. to us in writing as soon as possible and, in any event, before the end of 28 days beginning with the day on which this notice is given.
19. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:  
[Insert address details]
20. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[INSERT DATE OF NOTICE]



DRAFT

ANNEX 1  
THE APPARATUS

*[Insert a description of the electronic communications apparatus to which the notice relates]*

DRAFT

ANNEX 2

ADDITIONAL TERMS OF AGREEMENT SOUGHT

*[Insert description of the additional contractual terms sought or attach a draft agreement]*

DRAFT

ANNEX 3  
THE EXISTING APPARATUS

*[Insert a description of the electronic communications apparatus already installed on, under or over the Land and in respect of which you are seeking the Temporary Code Rights]*

SUPPLEMENTARY INFORMATION FOR THE RECIPIENT OF THIS NOTICE

Orders under paragraph 19(4) of the Code

1. An order under paragraph 19(4) of the Code is an order which imposes on us and you an agreement. The effect of such an agreement would be *[to confer the Code Rights on us / provide for the Code Rights to bind you]*.
2. The court may only make an order under paragraph 19(4) of the Code if it thinks that **both** of the following conditions are met:
  - a. the prejudice caused to you by the order is capable of being adequately compensated by money; and
  - b. the public benefit likely to result from the making of the order (having regard to the public interest in access to a choice of high quality electronic communications services) outweighs the prejudice to you.
3. The court may **not** make such an order if it thinks that you intend to redevelop all or part of the land to which the Code Rights would relate, or any neighbouring land, and could not reasonably do so if the order were made.
4. Paragraphs 22 and 23 of the Code contain further detail about the terms of the agreement that the court may impose.
5. The court also has the power to order us to pay you compensation for any loss or damage that you have sustained or will sustain as a result of the exercise of the Code Rights. Paragraphs 24 and 83 of the Code contain further detail about this.

*[Orders under paragraph 26(2) of the Code*

6. *An order under paragraph 26(2) of the Code is an order which [confers on us/provides for you to be bound by] such temporary code rights as appear to the court reasonably necessary for securing the objective set out in paragraph 26(3) of the Code. This objective is that, until the proceedings under paragraph 19 and any proceedings under paragraph 39 of the Code are determined, the service provided by our network is maintained and the Existing Apparatus is properly adjusted and kept in repair.*
7. *Paragraphs 22 and 23 of the Code contain further detail about the terms of the temporary agreement that the court may impose.*
8. *The court also has the power to order us to pay you compensation for any loss or damage that you have sustained or will sustain as a result of the exercise of the Code Rights. Paragraphs 24 and 83 of the Code contain further detail about this.]*

## STATUTORY NOTICE

### SEEKING AGREEMENT TO THE CONFERRAL OF INTERIM RIGHTS UNDER THE ELECTRONIC COMMUNICATIONS CODE

Paragraph 25(3) of Part 4 of Schedule 3A of The Communications Act 2003

**IMPORTANT NOTICE**

**If you are willing to enter into a Code Agreement, you should respond within 28 days**

1. This is a statutory notice pursuant to paragraph 25(3) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup>
2. This notice has been issued by *[Name of Code operator]* (“**we**” or “**us**”) to you, *[Insert name]*, because we would like to *[insert brief description of rights sought, e.g. to install apparatus and carry out related works]* on land occupied by you for the purposes of our *[electronic communications network and/or infrastructure system]*. We are seeking your agreement, on an interim basis, to confer these rights on us.

*[OR - delete appropriate version of paragraph 2]*

2. This notice has been issued by *[Name of Code operator]* (“**we**” or “**us**”) to you, *[Insert name]*, because we have certain rights to *[insert brief description of rights already exercisable by operator in relation to the land, e.g. keep apparatus installed on land in relation to which you have an interest]* for the purpose of our *[electronic communications network and/or infrastructure system]*. We are seeking your agreement, on an interim basis, to be bound by these rights.

#### BACKGROUND

3. We provide an *[electronic communications network and/or infrastructure system]* in the United Kingdom. This is used in order to provide consumers with *[insert a brief description of the retail services which are dependent on this network and/or infrastructure system (e.g. fixed voice and broadband services)]*.
4. For this purpose, the Office of Communications (OFCOM) has given a direction applying the Code to us. The Code regulates the relationships between us and occupiers of land, thereby facilitating the deployment of electronic communications apparatus.

#### INTERPRETATION

5. In this notice:
  - a. “**Apparatus**” means the electronic communications apparatus described in Annex 1;
  - b. “**Land**” means the land at *[Insert address / description of land, etc.]*.

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## DETAILS OF THE AGREEMENT WE ARE SEEKING

6. In this notice, we are seeking your agreement to **[confer on us / be bound by]** the following rights, on the interim basis specified at paragraph 8 below:
- a. **[the right to install the Apparatus on, under or over the Land];**
  - b. **[the right to keep installed the Apparatus which is on, under or over the Land];**
  - c. **[the right to inspect, maintain, adjust, alter, repair, upgrade or operate the Apparatus which is on, under or over the Land];**
  - d. **[the right to carry out any works on the Land for or in connection with the installation of the Apparatus on, under or over the Land [or the installation of electronic communications apparatus elsewhere];**
  - e. **[the right to carry out any works on the Land for or in connection with the maintenance, adjustment, alteration, repair, upgrading or operation of the Apparatus which is on, under or over the Land [or of electronic communications apparatus elsewhere];**
  - f. **[the right to enter the Land to inspect, maintain, adjust, alter, repair, upgrade or operate the Apparatus which is on, under or over the Land [or any electronic communications apparatus elsewhere];**
  - g. **[the right to connect the Apparatus to a power supply];**
  - h. **[the right to interfere with or obstruct a means of access to or from the Land (whether or not the Apparatus is on, under or over the Land)];** and
  - i. **[the right to lop or cut back, or require another person to lop or cut back, any tree or other vegetation that interferes or will or may interfere with the Apparatus].**

(together, the “**Code Rights**”).

7. In addition to the Code Rights, we are also seeking in this notice your agreement to the additional terms set out in Annex 2.
8. We would like the Code Rights, and additional terms set out in Annex 2, to be exercisable **[for a period of [Insert period (e.g. 3 months)] / until the occurrence of [Insert details of a particular event (e.g. until redevelopment of alternative property)]].**

## CONSEQUENCES OF NOT REACHING AGREEMENT

9. If either:
- a. you do not, before the end of 28 days beginning with the day on which this notice is given, agree **[to confer / to be bound by]** the Code Rights; or
  - b. at any time after this notice is given, you give notice in writing to us that you do not agree **[to confer / to be bound by]** the Code Rights,

we will be entitled to apply to the court for an order under paragraph 25 of the Code. Further detail on these orders is provided in the supplementary information at the back of this notice.

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10. We consider that the agreement sought in this notice is [not] a matter of urgency and therefore [do not] intend to apply for such an order prior to the end of the 28-day period referred to above.<sup>2</sup>

### YOUR OPTIONS

11. In response to this notice, you may:
- a. agree [to confer the Code Rights on us / to be bound by the Code Rights] on the interim basis requested in this notice;
  - b. give notice to us that you do not agree [to confer / to be bound by] the Code Rights on the interim basis requested in this notice; or
  - c. do nothing.
12. In deciding how to respond to this notice, you may wish to seek independent legal advice.
13. If you agree [to confer the Code Rights on us / to be bound by the Code Rights] on the interim basis requested in this notice, we will send you an agreement reflecting the terms set out in this notice and ask you to sign it. You would be entitled to seek independent legal advice in relation to this agreement.
14. Alternatively, and as explained at paragraph 9 above, if you do nothing or give notice to us that you do not agree [to confer / to be bound by] the Code rights on the interim basis requested in this notice, we will be entitled to apply to the court for an order under paragraph 25 of the Code.
15. Please submit any notification pursuant to paragraph 11a. or b. to us in writing as soon as possible and, in any event, before the end of 28 days beginning with the day on which this notice is given.
16. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:  
[Insert address details]
17. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[INSERT DATE OF NOTICE]

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<sup>2</sup> In limited circumstances, where the court agrees that it is a matter of urgency for an order to be made under paragraph 25 of the Code, it may make such an order even though the 28-day period referred to at paragraph 9a. above has not elapsed (and paragraph 9b. does not apply).

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ANNEX 1  
THE APPARATUS

*[Insert a description of the electronic communications apparatus to which the notice relates]*



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ANNEX 2

ADDITIONAL TERMS OF AGREEMENT SOUGHT

*[Insert description of the additional contractual terms sought or attach a draft agreement]*

SUPPLEMENTARY INFORMATION FOR THE RECIPIENT OF THIS NOTICE

Orders under paragraph 25(3) of the Code

1. An order under paragraph 25 of the Code is an order which imposes on us and you an agreement. The effect of such an agreement would be [*to confer the Code Rights on us / provide for the Code Rights to bind you*], on an *interim* basis.
2. Paragraphs 22 and 23 of the Code contain further detail about the terms of the agreement that the court may impose.
3. The court may only make an order if:
  - a. you have agreed with us to the making of the order and the terms of the agreement imposed by it; **or**
  - b. it thinks that there is a good arguable case that **both** of the following conditions are met:
    - i. the prejudice caused to you by the order is capable of being adequately compensated by money; and
    - ii. the public benefit likely to result from the making of the order (having regard to the public interest in access to a choice of high quality electronic communications services) outweighs the prejudice to you.
4. The court may **not** make such an order if it thinks that you intend to redevelop all or part of the land to which the Code Rights would relate, or any neighbouring land, and could not reasonably do so if the order were made.
5. The court also has the power to order us to pay you compensation for any loss or damage that you have sustained or will sustain as a result of the exercise of the Code Rights. Paragraphs 24 and 83 of the Code contain further detail about this.

**STATUTORY NOTICE**  
**BRINGING AN AGREEMENT UNDER THE ELECTRONIC**  
**COMMUNICATIONS CODE TO AN END**

**Paragraph 30(1) of Part 5 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 30(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. [I/ We] [Insert name] [am/are] currently party to an agreement under Part 2 of the Code with you, [Name of Code operator] (the “Agreement”). Under the Agreement, [I/we] agreed to confer or be otherwise bound by a number of Code rights in order to facilitate the deployment by you of your electronic communications network and/or infrastructure system. These code rights relate to land occupied by [me/us] at [Insert address].
3. The purpose of this notice is to inform you that [I/we] would like to bring the Agreement to an end.
4. [I/we] propose that the Agreement be brought to an end on [Insert date]. [see note (b)]
5. [I/we] propose that the Agreement be brought to an end: [see note (c)]
  - a. [as a result of substantial breaches by you of your obligations under the Agreement;]
  - b. [because of persistent delays by you in making payments to [me/us] under the Agreement;]
  - c. [because [I/we] intend to redevelop all or part of the land to which the Agreement relates, or any neighbouring land, and could not reasonably do so unless the Agreement comes to an end;]
  - d. [because you are not entitled to the Agreement because the test under paragraph 20 of the Code for the imposition of the Agreement on [me/us] is not met.]
6. In accordance with paragraph 31 of the Code, the Agreement should come to an end on the terms set out in this notice unless:
  - a. within the period of three months beginning with the day on which the notice is given, you give [me/us] a counter-notice in accordance with paragraph 31(3) of the Code; and
  - b. within the period of three months beginning with the day on which the counter-notice is given, you apply to the court for an order under paragraph 33 of the Code.

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:

- the address for service that the operator has given to you for the purposes of the Code; or
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

(b) Paragraph 30(3) of the Code provides that the date on which the Agreement is proposed to come to an end must fall:

- after the end of the period of 18 months beginning with the day on which this notice is given to the operator; **and**
- after the time at which, apart from paragraph 29 of the Code, the code right(s) to which the Agreement relates would have ceased to be exercisable or to bind you or at a time when, apart from that paragraph, the Agreement could have been brought to an end by you.

For the purposes of the first bullet point, the period of 18 months should not be calculated from the date of this notice, but from the date on which it is **given** to the operator. If the notice is sent by post, it will be deemed to have been given to the operator at the time at which it would be delivered in the ordinary course of post.

In accordance with the second bullet point, one of the following conditions must apply on the date on which you propose the Agreement should come to an end: (i) the code right(s) to which the Agreement relates are no longer exercisable or no longer bind you (e.g. because the term of the Agreement has expired) **or** (ii) you are able to bring the Agreement to an end (e.g. by giving notice to terminate under the Agreement). The effect of paragraph 29 of the Code should be disregarded in considering whether condition (i) or (ii) applies (paragraph 29 provides for the continuation of the Agreement notwithstanding that, under its terms, the code right(s) are no longer exercisable or no longer bind you, or that you may bring the Agreement to an end).

(c) The effect of paragraph 30(4) of the Code is that the Agreement may only be brought to an end if one of the grounds set out in a. to d. applies. Please delete as appropriate to state the ground on which you propose to end the Agreement.

## STATUTORY NOTICE

### REQUIRING A CHANGE TO THE TERMS OF AN AGREEMENT UNDER THE ELECTRONIC COMMUNICATIONS CODE

Paragraph 32(1) of Part 5 of Schedule 3A of the Communications Act 2003

#### IMPORTANT NOTICE

**If you agree to the changes we are requesting, you should respond within six months**

1. This is a statutory notice pursuant to paragraph 32(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup>
2. The purpose of this notice is to require a change to the terms of an agreement between you, [Insert name of site provider] and [us], [Insert name of Code operator] under Part 2 of the Code. We are seeking your agreement to this change.

#### BACKGROUND

3. We have entered into an agreement under Part 2 of the Code (the “Agreement”). Under the Agreement, you [have conferred on us / become bound by] certain rights under the Code. The purpose of these rights is to facilitate the deployment by us of our [electronic communications network and/or system of infrastructure] at [Insert address].
4. Paragraph 32 of the Code explains how a party to a Code agreement may require a change to the terms of an agreement which has expired. It provides that, in the first instance, the party seeking the change should provide notice to the other party of the change that it is seeking and the date on which that change would take place.

#### THE CHANGE WE ARE REQUESTING

5. We are asking you to agree, from the date set out in paragraph 6 below, that:
  - a. [the Agreement should have effect subject to the modified terms set out in Annex [X];]
  - b. [our existing Code right to [insert details of Code right] should no longer [be conferred by / bind] you;]
  - c. [the Agreement should also [confer on us / bind you to] [Insert details of additional Code right sought];]
  - d. [the Agreement should be terminated and a new agreement should have effect between us on the terms set out in Annex [X].]
6. The day from which we propose that:
  - a. [the modified terms should have effect;]
  - b. [the Code right referred to in paragraph 5 above should no longer [be conferred by / bind] you;]
  - c. [the additional Code right referred to in paragraph 5 above should [be conferred by / bind] you;]
  - d. [the Agreement should be terminated, and from which the new agreement set out in Annex [X] should have effect]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

[CODE OPERATOR VERSION]

is *[Insert Date]*.<sup>2</sup>

### CONSEQUENCES OF NOT REACHING AGREEMENT

7. If, after the end of six months beginning with the day on which this notice is given, we have not reached agreement with you on the proposals in this notice, we may apply to the court for an order under paragraph 33 of the Code.
8. Further detail on these orders is provided in the supplementary information at the back of this notice.

### YOUR OPTIONS

9. In response to this notice, you may:
  - a. agree to the change requested above;
  - b. give notice to us that you do not agree to the change requested above; or
  - c. do nothing.
10. In deciding how to respond to this notice, you may wish to seek independent legal advice.
11. If you agree to the change requested above, we will send you *[a modified version of the Agreement reflecting the terms set out in this notice / a new agreement reflecting the terms set out in Annex [X] together with a notice of confirmation that you agree to termination of the Agreement]*. We will ask you to sign *[this/these documents]*. You would be entitled to seek independent legal advice in relation to *[this/these]* document*[s]*.
12. Alternatively, and as explained at paragraph 7 above, if you do nothing or give notice to us that you do not agree the change requested above, we will be entitled to apply to the court for an order under paragraph 33 of the Code after the end of six months beginning with the day on which this notice is given.
13. Please submit any notification pursuant to paragraph 9a. or b. to us in writing as soon as possible and, in any event, before the end of six months beginning with the day on which this notice is given.
14. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:  
*[Insert address details]*
15. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

**[INSERT DATE OF NOTICE]**

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<sup>2</sup> Regulation 32(3) of the Code requires that the date must fall: (a) after the end of the period of six months beginning with the day on which this notice is given; and (b) after the time at which, apart from paragraph 29, the Code right to which the existing Code agreement relates would have ceased to be exercisable or to bind the site provider or at a time when, apart from that paragraph, the Code agreement could have been brought to an end by the site provider.

SUPPLEMENTARY INFORMATION FOR THE RECIPIENT OF THIS NOTICE

Orders under paragraph 33 of the Code

1. The types of orders which the court may make under paragraph 33 include an order which has the effect of:
  - a. [modifying the terms of the Agreement;]
  - b. [modifying the terms of the Agreement so that one of the Code rights set out therein is no longer *[conferred by / binding on]* you;]
  - c. [modifying the terms of the Agreement so that it *[confers an additional Code right on you / provides that you are bound by an additional Code right]*;]
  - d. [terminating the Agreement and ordering you to enter into a new agreement which *[confers a Code right on us / provides for a Code right to bind you]*;]
2. In determining whether to make an order under paragraph 33, the court must have regard to all the circumstances of the case, and in particular to:
  - a. the operator's business and technical needs;
  - b. the use that the site provider is making of the land to which the existing code agreement relates;
  - c. any duties imposed on the site provider by an enactment; and
  - d. the amount of consideration payable by the operator to the site provider under the existing code agreement.
3. If the court makes an order under paragraph 33, it may also order the operator to pay the site provider consideration. See paragraph 33(14) for details of how the consideration should be calculated by the court in this case.

## STATUTORY NOTICE

### REQUESTING DISCLOSURE OF WHETHER APPARATUS IS ON LAND PURSUANT TO THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 38(1) of Part 6 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 38(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. [I/We], [Insert name of landowner], have issued this notice to you, [Name of Code operator], in order to find out if you: [see note (b)]
  - a. [own electronic communications apparatus on, under or over land in which [I/we] have an interest or use such apparatus for the purpose of your network; and/or]
  - b. [have the benefit of a Code right (as defined in paragraph 3 of the Code) entitling you to keep electronic communications apparatus on, under or over land in which [I/we] have an interest.
3. The land in which [I/we] have an interest, and to which this notice relates, is [Insert address / description of land, etc] (the “Land”).
4. Please provide the information requested above as soon as possible and, in any event, before the end of **three months** beginning with the date on which this notice is given.
5. If you do not provide the information requested by this date<sup>2</sup> and BOTH:
  - a. [I/We] take action under paragraph 39 of the Code to enforce the removal of the apparatus at the Land; and
  - b. it is subsequently established that:
    - i. you own the apparatus or use it for the purposes of your network; and
    - ii. you have the benefit of a Code right entitling you to keep the apparatus on, under or over the Land,you must bear the costs of any such action taken by [me/us] under paragraph 39 of the Code.

[INSERT DATE OF NOTICE]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> This includes if you do not provide the information requested in a manner which complies with paragraph 87 of the Code.



NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

*(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:*

- the address for service that the operator has given to you for the purposes of the Code; or*
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*

*(b) In a notice under paragraph 38(1) of the Code, you can only require disclosure of the information set out at paragraphs a. and b., and you must have an interest in the land to which the notice relates. Please delete a. or b. as appropriate, based on the information that you are seeking.*

## STATUTORY NOTICE

### REQUESTING DISCLOSURE OF WHETHER APPARATUS IS ON LAND PURSUANT TO THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 38(2) of Part 6 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 38(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. [I/We], [Insert name of landowner or occupier], have issued this notice to you, [Name of Code operator], in order to find out if you: [see note (b)]
  - a. [own electronic communications apparatus on, under or over land that forms (or, but for the apparatus, would form) a means of access to neighbouring land in which [I/we] have an interest or use such apparatus for the purpose of your network; and/or]
  - b. [have the benefit of a Code right (as defined in paragraph 3 of the Code) entitling you to keep electronic communications apparatus on, under or over land that forms (or, but for the apparatus, would form) a means of access to neighbouring land in which [I/we] have an interest].
3. The land to which this notice relates is [Insert address / description of land, etc] (the “Land”). [I am / We are] the [landowner / occupier] of neighbouring land at [insert address / description of land, etc.].
4. Please provide the information requested above as soon as possible and, in any event, before the end of **three months** beginning with the date on which this notice is given.
5. If you do not provide the information requested by this date<sup>2</sup> and BOTH:
  - a. [I/We] take action under paragraph 39 of the Code to enforce the removal of the apparatus at the Land; and
  - b. it is subsequently established that:
    - i. you own the apparatus or use it for the purposes of your network; and
    - ii. you have the benefit of a Code right entitling you to keep the apparatus on, under or over the Land,you must bear the costs of any such action taken by [me/us] under paragraph 39 of the Code.

[INSERT DATE OF NOTICE]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> This includes if you do not provide the information requested in a manner which complies with paragraph 87 of the Code.

NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

*(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:*

- the address for service that the operator has given to you for the purposes of the Code; or*
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*

*(b) In a notice under paragraph 38(2) of the Code, you can only require disclosure of the information set out at paragraphs a. and b., and you must have an interest in neighbouring land. In particular, you must be the landowner or occupier of land which is neighbouring the land to which the notice relates. Please delete a. or b. as appropriate, based on the information that you are seeking.*

**STATUTORY NOTICE**  
**REQUIRING THE REMOVAL OF APPARATUS INSTALLED UNDER THE ELECTRONIC COMMUNICATIONS CODE**

**Paragraph 39(2) of Part 6 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 39(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. You, [Insert name of Code operator], have installed electronic communications apparatus [on / under / over] land at [Insert address] (the “Land”).
3. [I/we], [Insert name], [currently have an interest in the Land / [am/are] currently the owner or occupier of land that neighbours the Land]. [see note (b)]
4. The purpose of this notice is to inform you that [I/we] would like you to remove that apparatus and to restore the Land to its condition before the apparatus was placed [on / under / over] it.
5. [I/We] would like you to complete these works on or before [Insert Date]. [see note (c)]
6. Please confirm, within the period of 28 days beginning with the day on which this notice is given, if you agree to complete these works by the date(s) specified in paragraph 5 above.
7. Alternatively, if you consider that the date(s) specified by [me/us] at paragraph 5 above is not reasonable, please indicate as soon as possible (and at least within the period of 28 days beginning with the day on which this notice is given) what date(s) you consider to be reasonable for completion of the works.
8. [I/we] will be entitled to make an application to the court if we do not reach agreement on any of the following matters within the period of 28 days beginning with the day on which this notice is given:
  - a. that you will remove the apparatus;
  - b. that you will restore the Land to its condition before the apparatus was placed on, under or over the Land;
  - c. the time at which or period within which the apparatus is removed;
  - d. the time at which or period within which the Land will be restored.
9. The application to the court may be for:
  - a. an order under paragraph 43(1) of the Code requiring you to remove the apparatus;  
or
  - b. an order under paragraph 43(3) of the Code enabling [me/us] to sell the apparatus,

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

- (a) *This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:*
- the address for service that the operator has given to you for the purposes of the Code; or*
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*
- (b) *You are only entitled to send this notice if:*
- you have an interest in the Land and have the right, under paragraph 36 of the Code, to require the removal of electronic communications apparatus on, under or over the Land. To have this right, one or more of the five conditions set out at paragraph 36 must be met; or*
  - you are the owner or occupier of neighbouring land and have the right, under paragraph 37 of the Code, to require the removal of electronic communications apparatus on, under or over the Land. To have this right, both of the conditions set out at paragraph 37 must be met.*
- (c) *The date specified by you as the deadline for completion of the works must be a reasonable one. What is reasonable will depend on the individual circumstances of your case, including the complexity of the works to be undertaken.*

*Please note that you are entitled to specify a date for removal of the apparatus which is different to the date specified by you for restoring the Land to its previous condition.*

**STATUTORY NOTICE**  
**REQUIRING THE REMOVAL OF APPARATUS INSTALLED UNDER THE ELECTRONIC COMMUNICATIONS CODE**

**Paragraph 40(2) of Part 6 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 40(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup> [see note (a)]
2. You, **[Insert name of Code operator]**, have installed electronic communications apparatus **[on / under / over]** land at **[Insert address]** (the “**Land**”). Under **[Insert details of enactment or other document under which you have a right to require the removal of the apparatus]**, **[I/we]**, **[Insert name]**, have the right to require the removal of that apparatus. [see note (b)]
3. The purpose of this notice is to inform you that **[I/we]** would like you to remove that apparatus and restore the Land to its condition before the apparatus was placed **[on / under / over]** it.
4. **[I/We]** would like you to complete these works on or before **[Insert Date]**. [see note (c)]
5. If, within the period of 28 days beginning with the day on which this notice is given, you do not give **[me/us]** a counter-notice under paragraph 40(5) of the Code, **[I/we]** will be entitled to enforce the removal of the apparatus. [see note (d)]
6. Please give any such counter-notice to **[me/us]** at the following address:  
**[insert address]**

**[Insert date of Notice]**

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).
- (b) You are only entitled to send this notice if you have a pre-existing right, under an enactment other than the Code (i.e. legislation or other statutory instrument), or otherwise than under an enactment, to require the removal of the relevant apparatus. If you do have such a pre-existing right, that right is exercisable only in accordance with paragraph 40 of the Code and you are therefore required to send this notice before taking any action to enforce the removal of the apparatus.
- (c) The date specified by you as the deadline for completion of the works must be a reasonable one. What is reasonable will depend on the individual circumstances of your case, including the complexity of the works to be undertaken.
- (d) If the Code operator does give you a counter-notice within the period of 28 days beginning with the day on which this notice is given, you will only be entitled to enforce the removal of the apparatus if you obtain an order of the court to this effect.

Where you are entitled to enforce the removal of the apparatus because:

- the Code operator has failed to give you a counter-notice within the specified period, or
- the Code operator has given you a counter-notice but you have been granted a court order to enforce the removal of the apparatus,

you may make an application to the court for:

- an order under paragraph 43(1) of the Code requiring the Code operator to remove the apparatus; or
- an order under paragraph 43(3) of the Code enabling you to sell the apparatus.

## STATUTORY NOTICE

### COUNTER-NOTICE REGARDING THE REMOVAL OF APPARATUS INSTALLED UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 40(5) of Part 6 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 40(5) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup>
2. On *[Insert date]*, we *[Insert name of Code operator]*, were given a notice by you, *[Insert name of third party]*, under paragraph 40(2) of the Code. In that notice, you required us to remove electronic communications apparatus installed *[on / under / over]* land at *[Insert address]* (the “Apparatus”), and to restore that land to its previous condition.
3. The purpose of this counter-notice is to inform you that you are not entitled to require the removal of the Apparatus. This is because *[Insert details]*.

*[OR - delete appropriate version of paragraph 3]*

3. The purpose of this counter-notice is to inform you of the steps which we propose to take for the purpose of securing a right as against you to keep the Apparatus on the land. In particular, we propose to *[Insert details of proposed steps]*.<sup>2</sup>
4. As a result of this notice, you may only enforce the removal of the Apparatus in pursuance of an order of the court under paragraph 40(7) of the Code.

*[Insert date of Notice]*

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> Paragraph 40(8) of the Code provides that the court may only make an order under paragraph 40(7) if it is satisfied that either: (a) we are not intending to take those steps or are being unreasonably dilatory in taking them; or (b) taking those steps has not secured, or will not secure, for us as against you any right to keep the Apparatus installed on, under or over the land or to reinstall it if it is removed.



## STATUTORY NOTICE

### REQUIRING THE RESTORATION OF LAND TO ITS CONDITION BEFORE THE EXERCISE OF RIGHTS UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 42(5) of Part 6 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 42(5) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. The purpose of this notice is to require you, [Insert name of Code operator], to restore land in which [I / we], [Insert name of relevant person], have an interest, to its condition before the exercise of a Code right by you.
3. The land to which this notice relates is at [Insert address and any other relevant details] (the “Land”). [I am / We are] the [occupier of / owner of the freehold estate in<sup>2</sup> / lessee of] the Land and have a right, under paragraph 42(2) of the Code to require you to restore the Land to its condition before the exercise of a Code right by you. [see note (b)]
4. In order to restore the Land to its previous condition, [I / we] ask that you complete the works on or before [Insert date]. [see note (c)]
5. Please confirm, within the period of 28 days beginning with the day on which this notice is given, if you agree to complete these works by the date specified in paragraph 4 above.
6. Alternatively, if you consider that the date specified by [me/us] at paragraph 4 above is not reasonable, please indicate as soon as possible (and at least within the period of 28 days beginning with the day on which this notice is given) what date you consider to be reasonable for completion of the works.
7. If we do not reach agreement on any of the above matters within 28 days beginning with the day on which this notice is given, [I/we] will be entitled to make an application to the court for:
  - a. an order under paragraph 43(2) of the Code requiring you to restore the Land; or
  - b. an order under paragraph 43(4) of the Code enabling [me/us] to recover the cost of restoring the Land.

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> When applied in Scotland, this should be read as a reference to the owner of the Land.

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).
- (b) You only have a right to require the restoration of the Land if a number of conditions are satisfied. These are as follows:
- i. The condition of the Land has been affected by the exercise of a Code right and restoration of the Land to its condition before the Code right was exercised does not involve the removal of electronic communications apparatus from any land;
  - ii. You are the occupier of the Land, the owner of the freehold estate in the Land (or, in Scotland, the owner of the Land) or the lessee of the Land;
  - iii. You are not for the time being bound by the Code right (i.e. you have not entered into an agreement with the Code operator regarding the conferral of the Code right, or had such an agreement imposed on you by the courts).
- Further, even if you satisfy the conditions set out above, you will not have a right to require the restoration of the Land if:
- i. it is occupied by a person who either:
    - a. conferred a Code right (which is in force) entitling the Code operator to affect the condition of the Land in the same way as the Code right mentioned at paragraph (b) i. above; or
    - b. is otherwise bound by such a right; and
  - ii. that Code right was not conferred in breach of a covenant enforceable by you (or, in Scotland, in breach of a contractual term enforceable by you).
- (c) The date specified by you as the deadline for completion of the works must be a reasonable one. What is reasonable will depend on the individual circumstances of your case, including the complexity of the works to be undertaken.

## STATUTORY NOTICE

### REGARDING THE EXERCISE OF A TRANSPORT LAND RIGHT UNDER THE ELECTRONIC COMMUNICATIONS CODE TO CARRY OUT NON-EMERGENCY WORKS

#### Paragraph 48(1) of Part 7 of Schedule 3A of the Communications Act 2003

#### IMPORTANT NOTICE

**If you object to the works proposed in this notice, you should give a notice of objection within 28 days**

1. This is a statutory notice pursuant to paragraph 48(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup>
2. We, [*Insert name of Code operator*], are writing to you in your capacity as a transport undertaker (as defined in paragraph 45 of the Code) and, in particular, in respect of land at [*Insert address / description of land, etc.*] (the “Transport Land”).
3. The purpose of this notice is to inform you that we intend to exercise a transport land right (as defined at paragraph 47(1) of the Code) in order to carry out non-emergency works relating to a line crossing the Transport Land or any other electronic communications apparatus installed [*on / under / over*] the Transport Land.

#### BACKGROUND

4. We provide an [*electronic communications network and/or infrastructure system*] in the United Kingdom. For this purpose, the Office of Communications (OFCOM) has given a direction applying the Code to us.
5. The Code regulates the relationships between us and occupiers of land, thereby facilitating the deployment of electronic communications apparatus. Amongst other things, the Code entitles us to exercise transport land rights subject to the provisions of paragraphs 47 to 54 of the Code.
6. Paragraph 48(1) of the Code requires us to provide transport undertakers with a notice of proposed works before exercising a transport land right in order to carry out non-emergency works. This is a notice under paragraph 48(1) of the Code.

#### THE PROPOSED WORKS

7. We intend to carry out non-emergency works on the Transport Land for or in connection with the exercise of a transport land right.
8. A detailed plan and section of the works is set out in the Annex to this notice. <sup>[see note (a)]</sup>
9. We intend to commence the proposed works on [*Insert date*] [*and expect that they will be completed by [Insert date]*]. <sup>[see note (b)]</sup>

#### YOUR OPTIONS

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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10. If you do not object to the proposed works set out at paragraphs 7 and 8 above, you do not have to do anything in response to this notice. We will then proceed to carry out the proposed works on the date(s) specified above.
11. However, if you object to the proposed works, you are entitled to give us a notice informing us of your objection (a “**notice of objection**”) within 28 days of the day on which this notice was given to you.<sup>2</sup> Please give any notice of objection to us at the following address:  
  
**[insert address]**
12. Where a notice of objection is given, either of us may, within the period of 28 days beginning with the day on which the notice of objection is given (the “**arbitration notice period**”), give the other notice that the objection is to be referred to arbitration under paragraph 51 of the Code (an “**arbitration notice**”).
13. Where an arbitration notice has been given, works will only be permitted in accordance with an award made in the arbitration. However, if the arbitration notice period has ended and no arbitration notice has been given, we will be permitted to carry out the proposed works. This is the case notwithstanding your notice of objection.

**[Insert date of Notice]**

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<sup>2</sup> See, in particular, paragraph 49(2) of the Code.

NOTES FOR COMPLETING THIS NOTICE

- (a) If the transport undertaker agrees, this notice may instead contain a description of the proposed works (whether or not in the form of a diagram) rather than a plan and section of the works.
- (b) Under paragraphs 48(3) and (5) of the Code, Code operators are not entitled to begin their proposed works until after the period of 28 days beginning with the day on which notice of proposed works is given.

## STATUTORY NOTICE

### NOTICE OF OBJECTION TO THE EXERCISE OF A TRANSPORT LAND RIGHT UNDER THE ELECTRONIC COMMUNICATIONS CODE TO CARRY OUT NON-EMERGENCY WORKS

#### Paragraph 49(2) of Part 7 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 49(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup> [see note (a)]
2. We, [*Insert name of Transport Undertaker*], have received a notice from you, [*Insert name of Code operator*], pursuant to paragraph 48(1) of the Code. In that notice, dated [*Insert date*], you informed us of your intention to carry out non-emergency works at [*Insert address / description of land, etc.*] (the “**Proposed Works**”).
3. The purpose of this notice is to inform you that we object to the Proposed Works.

#### CONSEQUENCES OF THIS NOTICE

4. As a result of this notice, either one of us may give the other a notice that the objection is to be referred to arbitration under paragraph 51 of the Code.
5. Any notice of arbitration must be given within the period of 28 days beginning with the day on which this notice of objection has been given (the “**arbitration notice period**”).
6. Please note that you may only exercise a transport land right in order to carry out the Proposed Works if **either**:
  - a. the arbitration notice period has ended and no arbitration notice has been given by either of us; **or**
  - b. an arbitration notice has been given within the arbitration notice period but the works are permitted in accordance with an award made on the arbitration.

[*Insert date of Notice*]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

NOTES FOR COMPLETING THIS NOTICE

(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:

- the address for service that the operator has given to you for the purposes of the Code; or
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

## STATUTORY NOTICE

### REFERRAL TO ARBITRATION OF AN OBJECTION TO PROPOSED WORKS UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 49(3) of Part 7 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 49(3) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup> [see note (a)]
2. We, [Insert name of Code operator], recently gave you, [Insert name of Transport Undertaker] notice of our intention to carry out non-emergency works at [Insert address / description of land, etc.] (the “**Proposed Works**”). You subsequently gave us a notice of objection to the Proposed Works under paragraph 49(2) of the Code.

[OR - delete appropriate version of paragraph 2]

2. You, [Insert name of Code operator], recently gave us, [Insert name of Transport Undertaker] notice of your intention to carry out non-emergency works at [Insert address / description of land, etc.] (the “**Proposed Works**”). We subsequently gave you a notice of objection to the Proposed Works under paragraph 49(2) of the Code.
3. The purpose of this notice is to inform you that [our/your] objection to the Proposed Works is to be referred to arbitration under paragraph 51 of the Code.
4. This means that it will be referred to the arbitration of a single arbitrator<sup>2</sup> appointed **either**:
  - a. by agreement between both of us; **or**
  - b. in the absence of such agreement, by the President of the Institution of Civil Engineers.
5. [We propose that [Insert name] be appointed as arbitrator in respect of this matter. A copy of this individual’s relevant qualifications is provided at Annex 1 of this notice. If you do not agree with this individual’s appointment as arbitrator, please provide the name of one or more individuals that you consider would be suitable for this role and provide details of their relevant qualifications]. [see note (b)]
6. Please note that, as a result of this notice, [you/we] will not be permitted to carry out the Proposed Works unless they are permitted in accordance with an award made on the arbitration.

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> Paragraph 51(3) of the Code sets out in detail the powers of the arbitrator in relation to this dispute. Paragraph 51(6) of the Code also explains that, in determining what award to make, the matters to which the arbitrator must have regard include the public interest in there being access to a choice of high quality electronic communications services.



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[ANNEX 1

QUALIFICATIONS OF PROPOSED ARBITRATOR]

NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

*(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the Code operator/transport undertaker (as applicable) at:*

- the address for service that the operator/undertaker has given to you for the purposes of the Code; or*
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*

*(b) You are not required to put forward the name of an individual that you think would be suitable to act as the arbitrator. However, the parties should seek to reach agreement on this, where possible.*

*To facilitate this, it may be advisable for more than one individual's name to be put forward as the potential arbitrator.*

## STATUTORY NOTICE

### REGARDING THE EXERCISE OF A TRANSPORT LAND RIGHT UNDER THE ELECTRONIC COMMUNICATIONS CODE TO CARRY OUT EMERGENCY WORKS

#### Paragraph 50(2) of Part 7 of Schedule 3A of the Communications Act

#### IMPORTANT NOTICE

**If you consider you are entitled to compensation as a result of these emergency works, you should give us notice within 28 days**

1. This is a statutory notice pursuant to paragraph 50(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup>
2. We, [*Insert name of Code operator*], are writing to you in your capacity as a transport undertaker (as defined in paragraph 45 of the Code) and, in particular, in respect of land at [*Insert address / description of land, etc.*] (the “Transport Land”).
3. The purpose of this notice is to inform you that we have started exercising a transport land right (as defined at paragraph 47(1) of the Code) in order to carry out emergency works relating to electronic communications apparatus installed [*on / under / over*] the Transport Land.

#### BACKGROUND

4. We provide an [*electronic communications network and/or infrastructure system*] in the United Kingdom. For this purpose, the Office of Communications (Ofcom) has given a direction applying the Code to us.
5. The Code regulates the relationships between us and occupiers of land, thereby facilitating the deployment of electronic communications apparatus. Amongst other things, the Code entitles us to exercise transport land rights subject to the provisions of paragraphs 47 to 54 of the Code.
6. Paragraph 50(1) of the Code provides that we may exercise a transport land right in order to carry out emergency works. However, as soon as reasonably practicable after starting those works, we are required by paragraph 50(2) of the Code to give the transport undertaker an emergency works notice (as defined in paragraph 50(3) of the Code). This is an emergency works notice under paragraph 50 of the Code.

#### THE WORKS

7. The emergency works that we have started at the Transport Land are [*Insert details of emergency works*]. A detailed plan and section of the works is set out in the Annex to this notice. <sup>[see note (a)]</sup>

[OR - delete appropriate version of paragraph 7]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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7. We provided you with details of the works that we have started at the Transport Land in a notice of proposed works, under paragraph 48(1) of the Code, dated [*Insert date of notice of proposed works and, where possible, append a copy of that notice of proposed works to this notice*].
8. We have already started these works because we consider them to be emergency works. They are emergency works because [*Insert a clear statement explaining why the works are emergency works*]. <sup>[see note (b)]</sup>
9. We commenced the emergency works on [*Insert date*] [*and expect that they will be completed by [Insert date]*].

## YOUR OPTIONS

10. You are entitled, within the period of 28 days beginning with the day on which this notice is given (the “**compensation notice period**”), to give us notice which requires us to pay compensation for loss or damage sustained in consequence of the carrying out of the emergency works referred to at paragraph 7 above (a “**compensation notice**”).
11. Following receipt of a compensation notice, we will seek to agree with you the amount of compensation payable by us to you.
12. However, if we are unable to reach agreement on the amount of compensation payable within the period of 28 days beginning with the day on which you give a compensation notice to us, either of us may give the other notice that the disagreement is to be referred to arbitration under paragraph 51 of the Code.

[*Insert date of Notice*]

NOTES FOR COMPLETING THIS NOTICE

- (a) If the transport undertaker agrees, this notice may instead contain a description of the proposed works (whether or not in the form of a diagram) rather than a plan and section of the works.
- (b) Emergency works are defined in paragraph 50(9) of the Code as works carried out in order to stop anything already occurring, or to prevent anything imminent from occurring, which is likely to cause:
- danger to persons or property;
  - the interruption of any service provided by the operator's network; or
  - substantial loss to the operator,
- and any other works which it is reasonable (in all the circumstances) to carry out with those works.

Emergency works may include works which have been included in a notice of proposed works (under paragraph 48(1) of the Code) but become emergency works before you are authorised by paragraph 49 or 50 of the Code to carry them out.

## STATUTORY NOTICE

### REQUIRING THE PAYMENT OF COMPENSATION FOR LOSS OR DAMAGE SUSTAINED IN CONSEQUENCE OF THE CARRYING OUT OF EMERGENCY WORKS UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 50(4) of Part 7 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 50(4) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. On [Insert Date], you [Insert Name of Code operator], gave us [Insert name of Transport Undertaker], notice that you had started exercising a transport land right in order to carry out emergency works relating to electronic communications apparatus at [Insert address / description of land, etc.] (the “Emergency Works”).
3. The purpose of this notice is to require you to pay compensation for loss or damage sustained by us in consequence of the carrying out of the Emergency Works.

#### DETAILS OF OUR LOSS OR DAMAGE

4. As a consequence of the Emergency Works, [Please provide a brief summary of the loss or damage sustained by you as a result of those works].
5. To compensate us for this loss or damage, we request a compensation payment of £[Insert amount]. Further details on how we have calculated the amount of this compensation are set out at Annex 1.

#### CONSEQUENCE OF THIS NOTICE

6. You are required, by paragraph 50(5) of the Code, to pay us any compensation which is required by this notice.
7. The amount of compensation payable under paragraph 50(5) of the Code is to be agreed between us. However, if (within the period of 28 days beginning with the day on which this notice was given) we have not agreed the amount of compensation payable, either of us may give the other notice that the disagreement is to be referred to arbitration under paragraph 51 of the Code.

#### YOUR OPTIONS

8. We would like to agree the amount of compensation payable by you, without recourse to arbitration. Accordingly, please respond to this notice (within 28 days from the day on which it was given to you) to confirm whether you agree to pay us the compensation referred to at paragraph 5 above. If you do not agree, please explain why and explain what compensation (if any) you think should be payable.
9. Please note that, whilst you are not required to respond to this notice, we will be entitled to refer this matter to arbitration under paragraph 51 of the Code if you fail to do so within the period specified at paragraph 7 above.

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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[*Insert date of Notice*]

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ANNEX 1

AMOUNT OF COMPENSATION SOUGHT

[Please insert details and where relevant, any supporting materials (such as invoices)]



NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

*(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:*

- the address for service that the operator has given to you for the purposes of the Code; or*
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*

*Also, this notice should be given within the period of 28 days beginning with the day on which the emergency works notice was given to you by the Code operator. If you give this notice to the operator after this date, it will not be required to pay you any compensation under paragraph 50(5) of the Code.*

## STATUTORY NOTICE

### REFERRAL TO ARBITRATION OF A DISAGREEMENT ABOUT THE AMOUNT OF COMPENSATION PAYABLE UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 50(7) of Part 7 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 50(7) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. We, [Insert name of Code operator], recently gave you, [Insert name of Transport Undertaker] notice that we had started exercising a transport land right under the Code in order to carry out emergency works at [Insert address / description of land, etc.] (the “Emergency Works”). You subsequently gave us a notice requiring the payment of compensation for loss or damage sustained by you in consequence of the carrying out of the Emergency Works, under paragraph 50(4) of the Code.

[OR - delete appropriate version of paragraph 2]

2. You, [Insert name of Code operator], recently gave us, [Insert name of Transport Undertaker] notice that you had started exercising a transport land right under the Code in order to carry out emergency works at [Insert address / description of land, etc.] (the “Emergency Works”). We subsequently gave you a notice requiring the payment of compensation for loss or damage sustained by us in consequence of the carrying out of the Emergency Works, under paragraph 50(4) of the Code.
3. We have not agreed, within the period of 28 days beginning with the day on which that compensation notice was given, the amount of compensation payable.
4. The purpose of this notice is to inform you that our disagreement about the amount of compensation payable is to be referred to arbitration under paragraph 51 of the Code.
5. This means that it will be referred to the arbitration of a single arbitrator<sup>2</sup> appointed **either**:
  - a. by agreement between both of us; **or**
  - b. in the absence of such agreement, by the President of the Institution of Civil Engineers.
6. [We propose that [Insert name] be appointed as arbitrator in respect of this matter. A copy of this individual’s relevant qualifications is provided at Annex 1 of this notice. If you do not agree with this individual’s appointment as arbitrator, please provide the name of one or more individuals that you consider would be suitable for this role and provide details of their relevant qualifications]. [see note (b)]

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> Paragraph 51(4) of the Code sets out in detail the powers of the arbitrator in relation to this dispute. Paragraph 51(6) of the Code also explains that, in determining what award to make, the matters to which the arbitrator must have regard include the public interest in there being access to a choice of high quality electronic communications services.

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[ANNEX 1

QUALIFICATIONS OF PROPOSED ARBITRATOR]

NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the Code operator/transport undertaker (as applicable) at:
- *the address for service that the operator/undertaker has given to you for the purposes of the Code; or*
  - *if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*
- (b) *You are not required to put forward the name of an individual that you think would be suitable to act as the arbitrator. However, the parties should seek to reach agreement on this, where possible.*

*To facilitate this, it may be advisable for more than one individual's name to be put forward as the potential arbitrator.*

**STATUTORY NOTICE**  
**REQUIRING THE ALTERATION OF ELECTRONIC COMMUNICATIONS APPARATUS**  
**UNDER THE ELECTRONIC COMMUNICATIONS CODE**

**Paragraph 52(1) of Part 7 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 52(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup> [see note (a)]
2. The purpose of this notice is to require you, [Insert name of Code operator], to alter the electronic communications apparatus described in Annex 1 of this Notice in the manner specified in that Annex. That apparatus is installed at [Insert address] (the “**Transport Land**”).
3. We, [Insert name of transport undertaker], require this alteration on the ground that keeping the apparatus [on / under / over] the Transport Land [interferes with / is likely to interfere with]: [see note (b)]
  - a. [the carrying on of our [railway / canal / tramway] undertaking]; or
  - b. [anything [done / to be done] for the purposes of our [railway / canal / tramway] undertaking]

**CONSEQUENCES OF THIS NOTICE**

4. You may, within the period of 28 days beginning with the day on which this notice is given to you (the “**notice period**”), give us a notice specifying the respects in which you are not prepared to comply with this notice (a “**counter-notice**”).
5. If the notice period has ended and you have not given any counter-notice, you must comply with this notice within a reasonable time and to our reasonable satisfaction.
6. If you decide to give a counter-notice (within the notice period), we may apply to the court for an order requiring you to alter any of the apparatus specified in Annex 1. The court must not make an order unless it is satisfied that it is necessary on one of the grounds mentioned in paragraph 52(1) of the Code.<sup>2</sup>

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> See paragraphs 52(6) to 52(8) for further details on the matters to which the court must have regard when deciding whether or not to make such an order, as well as the court’s powers in making an order.

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ANNEX 1

DETAILS OF ELECTRONIC COMMUNICATIONS APPARATUS AND ALTERATION  
REQUIRED

The electronic communications apparatus to which this notice relates

*[Insert details of the line or other electronic communications apparatus to which this notice relates]*

The alterations required to that apparatus

*[Insert details of the alterations that you require]*

NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

*(a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:*

- the address for service that the operator has given to you for the purposes of the Code; or*
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*

*(b) You are only entitled to require the alteration of electronic communications apparatus under paragraph 52(1) of the Code on one or both of the grounds set out above. Please delete as appropriate.*

## STATUTORY NOTICE

### NOTICE OF OBJECTION TO THE ALTERATION OF ELECTRONIC COMMUNICATIONS APPARATUS UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 52(2) of Part 7 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 52(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1 2</sup>
2. We, [*Insert name of Code operator*], have received a notice from you, [*Insert name of Transport Undertaker*], pursuant to paragraph 52(1) of the Code (the “**Notice requiring Alterations**”). In that notice, dated [*Insert date*], you required us to alter the electronic communications apparatus described in Annex 1 of that Notice in the manner specified in that Annex. That apparatus is installed at [*Insert address*].
3. The purpose of this notice is to inform you that we are not prepared to comply with the Notice requiring Alterations in the following respects:

[*Insert details of the respects in which you are not prepared to comply with the Notice requiring Alterations*].

#### CONSEQUENCES OF THIS NOTICE

4. As a result of this notice, you may apply to the court for an order requiring us to alter any of the specified apparatus under paragraph 52(4) of the Code.
5. The court must not make such an order unless it is satisfied that the order is necessary on the ground that keeping the apparatus on, under or over transport land interferes with, or is likely to interfere with, EITHER:
  - a. the carrying on of your railway, canal or tramway undertaking; OR
  - b. anything done or to be done for the purposes of your railway, canal or tramway undertaking.<sup>3</sup>

[*Insert date of Notice*]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> This notice must be given to the relevant Transport Undertaker within the period of 28 days beginning with the day on which the Notice requiring Alterations was given. If you do not give this notice before the expiry of that time period, then you are required by paragraph 52(3) of the Code to comply with the Notice requiring Alterations within a reasonable time and to the reasonable satisfaction of the Transport Undertaker.

<sup>3</sup> Paragraphs 52(6) to 52(8) of the Code provide further details on the court’s powers to impose such an order, and on the matters to which it must have regard.



**STATUTORY NOTICE**  
**REGARDING THE TERMINATION OF TRANSPORT LAND RIGHTS UNDER THE**  
**ELECTRONIC COMMUNICATIONS CODE**

**Paragraph 53(7) of Part 7 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 53(7) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”). <sup>[see note (a)]</sup>
2. You, [*Insert name of Code operator*], have been exercising a transport land right (as defined in paragraph 47 of the Code) in relation to land occupied by us, [*Insert name of Transport Undertaker*]. This land is at [*Insert address / description of land, etc.*] (the “**Land**”).
3. The Land has ceased to be transport land (as defined in paragraph 45 of the Code).
4. The purpose of this notice is to inform you that, from [*Insert date*], Part 7 of the Code is to cease to apply to the Land in accordance with paragraph 53 of the Code. This means that the transport land rights which are currently exercisable in relation to the Land will cease to be exercisable. <sup>[see notes (b) and (c)]</sup>

[*Insert date of Notice*]

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

This notice may only be given **after** the land ceases to be transport land.

Also, the notice only needs to be given if the Code operator was exercising a transport land right in relation to the land immediately before the time when it ceased to be transport land.

- (b) Part 7 of the Code makes provision about the conferral, and exercise, of transport land rights. In particular, it provides that Code operators may exercise certain rights in respect of transport land and that some of these rights will continue to be exercisable even if the land ceases to be transport land.

In particular, if a Code operator is exercising a transport land right in relation to land immediately before a time when it ceases to be transport land, paragraph 53(2) of the Code provides that Part 7 of the Code will continue to apply to the land as if it were still transport land (and, accordingly, the Code operator may continue to exercise any transport land right in relation to the land as if it were still transport land).

However, paragraphs 53(4) to (9) of the Code set out a number of exceptions to this. One such exception is where the occupier of the land gives the Code operator a notice of termination under paragraph 53(7) of the Code. This standard form notice is intended to be such a notice of termination.

- (c) Under paragraph 53(8) of the Code, the date specified in this notice of termination must fall after the end of the period of 12 months beginning with the day on which this notice is given.

For example, if this notice is given on 1 November 2017, the earliest date which may be specified in this notice is 2 November 2018.

## STATUTORY NOTICE

### REGARDING NON-EMERGENCY UNDERTAKER'S WORKS WHICH INTERFERE WITH AN ELECTRONIC COMMUNICATIONS NETWORK

#### Paragraph 66(1) of Part 10 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 66(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the "**Code**").<sup>1</sup> [see note (a)]
2. The purpose of this notice is to inform you that we, [Insert name of undertaker] intend to carry out non-emergency works at [Insert address, and any other relevant description] (the "**Land**"). [see note (b)]
3. These works will involve, or are likely to involve, an alteration of electronic communications apparatus kept by you, [Insert name of Code operator] on, under or over the Land for the purposes of your network.

#### THE PROPOSED WORKS AND ALTERATIONS

4. We propose to [Insert details of the proposed non-emergency works, with more detail in an annex if necessary] (the "**Proposed Works**"). These works will begin on [Insert date] at [the location specified in paragraph 2 above].
5. The Proposed Works [will involve / are likely to involve] the alteration of the electronic communications apparatus specified in the Annex to this notice in the manner specified in that Annex. This alteration would be [permanent / temporary].

#### YOUR OPTIONS

6. You are entitled, within the period of 10 days beginning with the day on which this notice is given (the "**notice period**"), to give us a counter-notice under paragraph 67(2) of the Code. Such a counter-notice can state either:
  - a. that you require us to make any alteration of the electronic communications apparatus that is necessary or expedient because of the Proposed Works under your supervision and to your satisfaction; or
  - b. that you intend to make any alteration of the electronic communications apparatus that is necessary or expedient because of the Proposed Works.<sup>2</sup>
7. We must not begin the proposed works (including the proposed alteration of your electronic communications apparatus) until the notice period has ended. [see note (c)]
8. Further, if you give us a counter-notice within the notice period, paragraphs 67(3) to (6) of the Code will apply.

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> Under paragraphs 68(2) and 69(2)(b) of the Code, we would be required to pay you the amount of any loss or damage sustained by you in consequence of the alteration referred to in this notice. Further, if you choose to supervise us when altering the electronic communications apparatus, we are required by paragraph 68(3) of the Code to pay you any expenses incurred by you in, or in connection with, that supervision. Similarly, if you choose to make the alterations yourself, we are required under paragraph 69(2)(a) to pay you any expenses incurred by you in, or in connection with, making the alteration.

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9. Even if you do not provide us with a counter-notice within the notice period, we are required by paragraph 68 of the Code to pay you the amount of any loss or damage sustained by you in consequence of any alteration being made to your electronic communications apparatus (in carrying out the Proposed Works).

*[Insert date of Notice]*

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ANNEX 1

THE APPARATUS AND THE PROPOSED ALTERATION

The electronic communications apparatus

*[Insert details of the electronic communications apparatus to which the alteration will relate]*

The proposed alteration(s)

*[Insert details of the alterations which will, or are likely, to be made to the electronic communications apparatus described above as a result of the Proposed Works]*

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

Please note that you will be guilty of an offence if you make an alteration of electronic communications apparatus in carrying out non-emergency undertaker's works without giving this notice.

- (b) This notice is only suitable when providing notice of non-emergency undertaker's works. These works are defined at paragraph 66(5) of the Code as any undertaker's works (defined at paragraph 65(1) of the Code) which are not emergency works. Emergency undertaker's works are defined in paragraph 70 of the Code as follows:

"undertaker's works carried out in order to stop anything already occurring, or to prevent anything imminent from occurring, which is likely to cause:

- (a) danger to persons or property;
- (b) interference with the exercise of any functions conferred or imposed on the undertaker by or under any enactment; or
- (c) substantial loss to the undertaker,

and any other works which it is reasonable (in all the circumstances) to carry out with those works."

- (c) Please note that you will be guilty of an offence if you make an alteration of electronic communications apparatus in carrying out non-emergency undertaker's works before the end of the notice period.

## STATUTORY NOTICE

### COUNTER-NOTICE REGARDING NON-EMERGENCY UNDERTAKER'S WORKS WHICH INTERFERE WITH AN ELECTRONIC COMMUNICATIONS NETWORK

#### Paragraph 67(2) of Part 10 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 67(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the "**Code**").<sup>1</sup>
2. On *[Insert date]*, you, *[Insert name of undertaker]*, gave us, *[Insert name of Code operator]*, a notice under paragraph 66(1) of the Code. That notice informed us of your intention to carry out non-emergency works at *[Insert address]* which would interfere with our electronic communications apparatus (the "**Proposed Works**").
3. The purpose of this notice is to inform you that we require you to make any alteration of our electronic communications apparatus that is necessary or expedient because of the Proposed Works both under our supervision and to our satisfaction.

*[OR - delete appropriate version of paragraph 3]*

3. The purpose of this notice is to inform you that we intend to make any alteration of our electronic communications apparatus that is necessary or expedient because of the Proposed Works.

#### CONSEQUENCES OF THIS NOTICE

4. As a result of this notice, you must, in carrying out the Proposed Works, act in accordance with this counter-notice when altering our electronic communications apparatus and therefore carry out those alterations both under our supervision and to our satisfaction.<sup>2</sup> You must also pay us:
  - a. the amount of any loss or damage sustained by us in consequence of any alteration being made to our electronic communications apparatus (in carrying out the Proposed Works); and
  - b. any expenses incurred by us in, or in connection with, supervising you when altering our electronic communications apparatus (in carrying out the Proposed Works).

*[OR - delete appropriate version of paragraph 4]*<sup>3</sup>

4. As a result of this notice, you must not alter our electronic communications apparatus (in carrying out the Proposed Works).<sup>4</sup> You must also pay us:
  - a. any expenses incurred by us in, or in connection with, making the alteration; and

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> This is subject to paragraph 67(4) of the Code which provides that, where a Code operator unreasonably fails to provide the required supervision, the undertaker must act in accordance with the counter-notice only insofar as it requires alterations to be made to the satisfaction of the Code operator.

<sup>3</sup> The appropriate version of paragraph 4 will depend on which version of paragraph 3 you have chosen. In particular, if you choose the first version of paragraph 3, you must choose the first version of paragraph 4 (and vice versa).

<sup>4</sup> This is subject to paragraph 67(6) of the Code which provides that the undertaker should not be prevented from making any alteration of electronic communications apparatus which the Code operator fails to make within a reasonable time.

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- b. the amount of any loss or damage sustained by us in consequence of the alteration being made.

*[Insert date of Notice]*



## STATUTORY NOTICE

### REGARDING THE CARRYING OUT OF EMERGENCY UNDERTAKER'S WORKS UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 70(2) of Part 10 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 70(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”). <sup>[see note (a)]</sup>
2. We, [*Insert name of undertaker*], are writing to you in your capacity as a Code operator and, in particular, in respect of electronic communications apparatus kept by you [*on / under / over*] land at [*Insert address / description of land, etc.*] (the “**Apparatus**”).
3. The purpose of this notice is to inform you that we have begun carrying out emergency undertaker's works (as defined in paragraph 70 of the Code) and, in carrying out those works, [*have made / have commenced making / will make*] an alteration to the Apparatus in accordance with paragraph 70(1) of the Code.
4. Further details on the alteration that we [*have made / have commenced making / will make*] are set out in the Annex to this notice.

#### YOUR RIGHTS

5. We are required by paragraph 70(4) of the Code to make the alteration to your satisfaction. [*If you are not satisfied with the alterations made to the Apparatus / If you would like to supervise us in making these Alterations*<sup>1</sup> <sup>[see note (b)]</sup>, please let us know by contacting:

[*Insert contact details*].

6. We are also required by paragraph 70(5)(b) to pay you the amount of any loss or damage sustained by you in consequence of the alteration being made. If you sustain any loss or damage in consequence of the alteration being made, please provide details to the contact referred to in the paragraph above.

[*Insert date of Notice*]

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<sup>1</sup> If you would like to supervise us in making these alterations, we are required by paragraph 70(5)(a) of the Code to pay you any expenses incurred in, or in connection with, that supervision.

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ANNEX  
THE ALTERATIONS

*[Insert details of the relevant alterations. These can be provided by descriptive text and/or diagrams].*

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

This notice is only suitable for emergency undertaker's works and must be given to the relevant Code operator **as soon as practicable** after those works are started. Emergency undertaker's works are defined in paragraph 70 of the Code as follows:

*"undertaker's works carried out in order to stop anything already occurring, or to prevent anything imminent from occurring, which is likely to cause:*

- (a) danger to persons or property;*
- (b) interference with the exercise of any functions conferred or imposed on the undertaker by or under any enactment; or*
- (c) substantial loss to the undertaker,*

*and any other works which it is reasonable (in all the circumstances) to carry out with those works."*

*Please note that an undertaker, or an agent of an undertaker, is guilty of an offence if that person makes an alteration of electronic communications apparatus in carrying out emergency undertaker's works and does so without notice of those works having been given in accordance with paragraph 70 of the Code.*

- (b) Please choose appropriate text depending on whether or not the alterations have already been completed. If they have not been completed, you should provide the operator with the opportunity to supervise them being made.*

## STATUTORY NOTICE

### REGARDING THE INSTALLATION OF ELECTRONIC COMMUNICATIONS APPARATUS UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 74(2) of Part 11 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 74(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”). <sup>[see note (a)]</sup>
2. We, *[Insert name of Code operator]*, have installed *[this electronic communications apparatus / electronic communications apparatus that is directly or indirectly connected to this piece of apparatus]* for the purposes of our network (the “**Apparatus**”). We are required to provide this notice because the Apparatus is at a height of three or more metres above the ground.

#### RIGHT TO OBJECT

3. You **will** have a right to object to the Apparatus under paragraph 76 of the Code if BOTH:
  - a. you are an occupier of, or have an interest in, any land neighbouring the land on or over which the Apparatus is kept; AND
  - b. because of the nearness of that neighbouring land to the land on or over which the Apparatus is kept:
    - i. the enjoyment of that neighbouring land is capable of being prejudiced by the Apparatus; or
    - ii. any interest in that land is capable of being prejudiced by the Apparatus.
4. You **will not** however have a right to object, even if the criteria referred to at paragraph 3 above are satisfied, if the Apparatus:
  - a. replaces any electronic communications apparatus which is not substantially different from the Apparatus; and
  - b. is not in a significantly different position.
5. If you have a right to object to the Apparatus, you may exercise that right by giving us notice of your objection under paragraph 77 of the Code. Any such notice should be provided in writing to:

*[Insert appropriate UK postal address]*

6. Any notice of objection should be provided as soon as practicable. Please note that your right to object, and the procedure that applies to that right, will depend on whether you provide notice of your objection within 12 months of installation of the Apparatus, or after. The circumstances in which a court may uphold an objection are significantly more limited if the Apparatus has been installed for over 12 months.<sup>1</sup>

*[Insert date of Notice]*

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<sup>1</sup> See paragraphs 78 and 79 of the Code for more detail on your right to object and the procedure that will apply in respect of it.

NOTES FOR COMPLETING THIS NOTICE

*This notice should be given before the end of the period of three days beginning with the day after that on which the relevant installation is completed.*

*It must be attached, in a secure and durable manner, to every major item of apparatus installed or, if no major item of apparatus is installed, to the nearest major item of electronic communications apparatus to which the apparatus that is installed is directly or indirectly connected. It must also be attached in a position where it is reasonably legible.*

## STATUTORY NOTICE

### NOTICE OF OBJECTION TO ELECTRONIC COMMUNICATIONS APPARATUS KEPT ON, UNDER OR OVER TIDAL WATER OR LAND UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 77(1) of Part 12 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 77(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. The purpose of this notice is to inform you, [Insert name of Code operator], that [I/we], [Insert name of objector(s)], object to electronic communications apparatus installed by you on, under or over [tidal water / tidal lands]. [see note (b)]

#### THE APPARATUS

3. The apparatus to which this notice relates is kept [on / under / over] [tidal water / tidal lands] at [Insert address / description of location of tidal water or lands] (the “Apparatus”).
4. [A map which identifies the approximate location of the Apparatus and the [tidal water / tidal lands] [on / under / over] which the Apparatus is kept is provided in the Annex to this notice.] [see note (c)]
5. [I/We] [[am/are] an occupier of / have an interest in] that tidal water or lands.

#### MY OBJECTION

6. [I/We] object to the Apparatus on the ground that it materially prejudices [my/our] enjoyment of, or interest in, the tidal water or lands. In particular, [explain why the Apparatus materially prejudices your enjoyment of, or interest in, the tidal water or lands and in what way the Apparatus should be altered].

[OR - delete appropriate version of paragraph 6] [see note (d)]

6. [I/We] object to the Apparatus on the ground that it is necessary to alter the Apparatus to enable [me/us] to carry out a proposed improvement of the tidal water or lands. In particular, [explain what proposed improvements you would like to make, why these are necessary and in what way the Apparatus should be altered].
7. For all future correspondence on this matter, please contact me: [Insert relevant contact details (post, phone, email)].

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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[ANNEX

APPROXIMATE LOCATION OF THE APPARATUS

*[Insert map and mark, as closely as possible, where the Apparatus is located].]*

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service (if any) that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

Please note that you will also need to make a separate application to the court (in addition to giving this notice) if you want to have your objection upheld. You can apply to the court to have your objection upheld after the end of the period of two months beginning with the date on which this notice is given, but before the end of the period of four months beginning with that date.

For example, if you give your notice of objection to the Code operator on 1 November 2017, you will only be entitled to apply to the court to have your objection upheld between 2 January 2017 and 1 March 2018.

- (b) You will only have a right to object to the Apparatus, under paragraph 76(1) of the Code, if:
- a. you are an occupier, or have an interest in, the tidal water or lands;
  - b. you are not bound by a Code right enabling the Code operator to keep the Apparatus installed on, under or over the tidal water or lands; and
  - c. you are not a person with the benefit of a Crown interest in the tidal water or lands.

You **will not** however have a right to object, even if the above criteria are satisfied, if the Apparatus:

- a. replaces any electronic communications apparatus which is not substantially different from the Apparatus; and
  - b. is not in a significantly different position.
- (c) You are not required to provide a map showing the approximate location. However, you may find this helpful, particularly if you think that the Code operator may find it difficult to identify the relevant apparatus from the address / description given in paragraph 3 above.
- (d) If your objection is made **within 12 months** of the Apparatus being installed, you should choose the first version of paragraph 6. This is because the court must be satisfied, amongst other things, that the Apparatus appears materially to prejudice your enjoyment of, or interest in, the tidal water or lands before it can uphold your objection. See paragraphs 78(4) and (5) for the conditions which must be met before the court will uphold your objection.

However, if your objection is made **later than 12 months** after the Apparatus was installed, you should choose the second version of paragraph 6. This is because the court must be satisfied, amongst other things, that the Apparatus needs to be altered to enable you to carry out a proposed improvement of the tidal water or lands before it can uphold your objection. See paragraph 79(3) for the conditions which must be met before the court may uphold your objection.



## STATUTORY NOTICE

### NOTICE OF OBJECTION TO A LINE INSTALLED OVER LAND UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 77(1) of Part 12 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 77(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. The purpose of this notice is to inform you, [Insert name of Code operator], that [I/we], [Insert name of objector(s)], object to a line installed over land by you pursuant to paragraph 73 of the Code. [see note (b)]

#### THE APPARATUS

3. The line to which this notice relates has been installed over land at [Insert address] (the “Line”).
4. [A map which identifies the approximate location of the Line and the land over which it has been installed is provided in the Annex to this notice.] [see note (c)]
5. [I/We] [[am/are] the occupier of / have an interest in] that land.

#### MY OBJECTION

6. [I/We] object to the Line on the ground that it materially prejudices [my/our] enjoyment of, or interest in, the land. In particular, [explain why the Line materially prejudices your enjoyment of, or interest in, the land and in what way the Line should be altered].  
  
[OR - delete appropriate version of paragraph 6] [see note (d)]
6. [I/We] object to the Line on the ground that it is necessary to alter the Line to enable [me/us] to carry out a proposed improvement of the land. In particular, [explain what proposed improvements you would like to make, why these are necessary and in what way the Line should be altered].
7. For all future correspondence on this matter, please contact [me/us]: [Insert relevant contact details (post, phone, email)].

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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[ANNEX

APPROXIMATE LOCATION OF THE LINE

*[Insert map and mark, as closely as possible, where the Line is located].]*

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

Please note that you will also need to make a separate application to the court (in addition to giving this notice) if you want to have your objection upheld. You can apply to the court to have your objection upheld after the end of the period of two months beginning with the date on which this notice is given, but before the end of the period of four months beginning with that date.

For example, if you give your notice of objection to the Code operator on 1 November 2017, you will only be entitled to apply to the court to have your objection upheld between 2 January 2017 and 1 March 2018.

- (b) You will only have a right to object to the Line, pursuant to paragraph 76(3) of the Code, if:
- a. you are an occupier, or have an interest in, the land over which it has been installed; and
  - b. you are not bound by a Code right enabling the Code operator to keep the Line installed over the land.

You **will not** however have a right to object, even if the above criteria are satisfied, if the Line:

- a. replaces any line which is not substantially different from the Line; and
- b. is not in a significantly different position.

- (c) You are not required to provide a map showing the approximate location. However, you may find this helpful, particularly if you think that the Code operator may find it difficult to identify the relevant apparatus from the address / description given in paragraph 3 above.

- (d) If your objection is made **within 12 months** of the Line being installed, you should choose the first version of paragraph 6. This is because the court must be satisfied, amongst other things, that the Line appears materially to prejudice your enjoyment of, or interest in, the land before it can uphold your objection. See paragraphs 78(4) and (5) for the conditions which must be met before the court will uphold your objection.

However, if your objection is made **later than 12 months** after the Line was installed, you should choose the second version of paragraph 6. This is because the court must be satisfied, amongst other things, that the Line needs to be altered to enable you to carry out a proposed improvement of the land before it can uphold your objection. See paragraph 79(3) for the conditions which must be met before the court may uphold your objection.

## STATUTORY NOTICE

### NOTICE OF OBJECTION TO ELECTRONIC COMMUNICATIONS APPARATUS KEPT ON OR OVER LAND UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 77(1) of Part 12 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 77(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. The purpose of this notice is to inform you, [Insert name of Code operator], that [I/we], [Insert name of objector(s)], object to electronic communications apparatus kept by you on or over land for the purposes of your network. [see note (b)]

#### THE APPARATUS

3. The apparatus to which this notice relates has been installed [on / over] land at [Insert address] (the “Apparatus”).
4. [I/we] [occupy / have an interest in] neighbouring land at [Insert address] (the “neighbouring land”)
5. [A map which identifies the approximate location of the Apparatus, the land [on / over] which the Apparatus is kept, and the neighbouring land is provided in the Annex to this notice.] [see note (c)]

#### MY OBJECTION

6. [I/we] object to the Apparatus on the ground that it materially prejudices [my/our] enjoyment of, or interest in, the neighbouring land. In particular, [explain why the Apparatus materially prejudices your enjoyment of, or interest in, the neighbouring land and in what way the Apparatus should be altered].

[OR - delete appropriate version of paragraph 6] [see note (d)]

6. [I/we] object to the Apparatus on the ground that it is necessary to alter the Apparatus to enable [me/us] to carry out a proposed improvement of the neighbouring land. In particular, [explain what proposed improvements you would like to make, why these are necessary and in what way the Apparatus should be altered].
7. For all future correspondence on this matter, please contact [me/us]: [Insert relevant contact details (post, phone, email)].

[Insert date of Notice]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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[ANNEX

APPROXIMATE LOCATION OF THE APPARATUS

*[Insert map and mark, as closely as possible, where the Apparatus is located].]*

NOTES FOR COMPLETING THIS NOTICE

You may wish to obtain independent legal advice before completing this notice.

- (a) This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:
- the address for service that the operator has given to you for the purposes of the Code; or
  - if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).

Please note that you will also need to make a separate application to the court (in addition to giving this notice) if you want to have your objection upheld. You can apply to the court to have your objection upheld after the end of the period of two months beginning with the date on which this notice is given, but before the end of the period of four months beginning with that date.

For example, if you give your notice of objection to the Code operator on 1 November 2017, you will only be entitled to apply to the court to have your objection upheld between 2 January 2018 and 1 March 2018.

- (b) You will only have a right to object to the Apparatus, under paragraph 76(5) of the Code, if:
- a. the whole or any part of the Apparatus is at a height of three metres or more above the ground;
  - b. you are an occupier, or have an interest in, any land neighbouring the land on which the apparatus is kept; and
  - c. because of the nearness of the neighbouring land to the land on or over which the Apparatus is kept:
    - i. the enjoyment of the neighbouring land is capable of being prejudiced by the Apparatus; or
    - ii. any interest in that land is capable of being prejudiced by the Apparatus.

You **will not** however have a right to object, even if the above criteria are satisfied, if the Apparatus:

- a. replaces any electronic communications apparatus which is not substantially different from the Apparatus; and
  - b. is not in a significantly different position.
- (c) You are not required to provide a map showing the approximate location. However, you may find this helpful, particularly if you think that the Code operator may find it difficult to identify the relevant apparatus from the address / description given in paragraph 3 above.

PLEASE SEE OVERLEAF

NOTES FOR COMPLETING THIS NOTICE (CONTINUED)

(d) If your objection is made **within 12 months** of the Apparatus being installed, you should choose the first version of paragraph 6. This is because the court must be satisfied, amongst other things, that the Apparatus appears materially to prejudice your enjoyment of, or interest in, the neighbouring land before it can uphold your objection. See paragraphs 78(4) and (5) of the Code for the conditions which must be met before the court will uphold your objection.

However, if your objection is made **later than 12 months** after the Apparatus was installed, you should choose the second version of paragraph 6. This is because the court must be satisfied, amongst other things, that the Apparatus needs to be altered to enable you to carry out a proposed improvement of the neighbouring land before it can uphold your objection. See paragraph 79(3) of the Code for the conditions which must be met before the court may uphold your objection.

## STATUTORY NOTICE

### REQUIRING [A TREE TO BE LOPPED / VEGETATION TO BE CUT BACK] PURSUANT TO THE ELECTRONIC COMMUNICATIONS CODE

Paragraph 81(3) of Part 13 of Schedule 3A of the Communications Act 2003

#### IMPORTANT NOTICE

**If you object to the works proposed in this notice, you should send a counter notice within 28 days**

1. This is a statutory notice pursuant to paragraph 81(3) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup>
2. We [Insert name of Code operator] are giving you, [Insert name], this notice because we understand that you are the occupier of land at [Insert address and any other relevant details] (the “Land”).
3. We are concerned that [a tree / vegetation] growing on the Land is overhanging a [street / road] and [obstructing / will or may obstruct / interferes with / will or may interfere with] electronic communications apparatus [installed / about to be installed] by us and which is [used / to be used] for the purposes of our network. Further details on the [tree / vegetation] to which this notice relates are set out in the Annex to this notice.
4. The purpose of this notice is to require you to [lop the tree / cut back the vegetation] to prevent the [obstruction / interference] referred to above. We ask that you do this on or before [Insert date].

#### YOUR OPTIONS

5. In response to this notice, you may:
  - a. comply with this notice and therefore [lop the tree / cut back the vegetation] by the deadline specified above;<sup>2</sup>
  - b. within the period of 28 days beginning with the day on which this notice is given, give us a counter-notice under paragraph 81(4) of the Code objecting to the [lopping of the tree / cutting back of the vegetation]. If you do submit such a notice, we will only be entitled to [lop the tree / cut back the vegetation] in pursuance of an order of the court; or [see note (a)]
  - c. do nothing. If you do nothing, we will be entitled to cause the [tree to be lopped / vegetation to be cut back] after the expiry of the 28-day period referred to above (i.e. without an order of the court).<sup>3</sup>

<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>2</sup> If you do so and sustain any loss or damage or incur any expenses as a result, you will be entitled under paragraph 81(9) of the Code to apply to the court for an order requiring us to pay such compensation as the court thinks fit.

<sup>3</sup> Paragraph 81(7) of the Code requires us to carry out any such works in a husband-like manner and in such a way as to cause the minimum damage to the tree or vegetation. This is also the case if we obtain an order of the court entitling us to carry out the works ourselves. Where we cause the tree to be lopped or vegetation to be cut back and you sustain any loss or damage as a result, you will be



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6. Please submit any counter-notice pursuant to paragraph 5b. above to us in writing as soon as possible and, in any event, before the end of 28 days beginning with the day on which this notice is given.
7. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:  
[*Insert address details*]
8. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[*INSERT DATE OF NOTICE*]

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entitled under paragraph 81(9) of the Code to apply to the court for an order requiring us to pay such compensation as the court thinks fit.

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ANNEX

THE [TREE / VEGETATION] TO WHICH THIS NOTICE RELATES

*[Insert further details, such as a map showing the precise location of the tree/vegetation and the precise works which you consider need to be carried out in order to prevent the obstruction or interference with your apparatus].*

STATUTORY NOTICE

COUNTER-NOTICE REGARDING THE [LOPPING OF A TREE / CUTTING BACK OF VEGETATION] UNDER THE ELECTRONIC COMMUNICATIONS CODE

Paragraph 81(4) of Part 13 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 81(4) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup> [see note (a)]
2. [I / We], [Insert name], have received a notice from you, [Insert name of Code operator], under paragraph 81(3) of the Code requiring us to [lop a tree / cut back vegetation] at [Insert address].
3. The purpose of this notice is to inform you that [I / we] object to the [lopping of the tree / cutting back of the vegetation] required by your notice. This is because [insert details of why you object]. [see note (b)]

[INSERT DATE OF NOTICE]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

NOTES FOR COMPLETING THIS NOTICE

*You may wish to obtain independent legal advice before completing this notice.*

(a) *This notice should be **delivered by hand** or sent by **registered post** or **recorded delivery** to the operator at:*

- the address for service that the operator has given to you for the purposes of the Code; or*
- if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at [www.legislation.gov.uk](http://www.legislation.gov.uk)).*

*To be effective, this notice must be given to the operator within the period of 28 days beginning with the day on which the operator gave you a notice under paragraph 81(3) of the Code. If it is given by this deadline, the Code operator will not be able to require you to lop the tree or cut back the vegetation (or carry out these works itself) unless it has an order of the court to this effect.*

(b) *You should explain as clearly as possible why you object to the works required by the Code operator. For example, do you require more time to complete the works? Do you think that the extent of the works requested by the Code operator is not necessary to ensure that the interference/obstruction to that operators' electronic communications apparatus is prevented (and, if so, why)?*

**STATUTORY NOTICE**  
**OF THE ASSIGNMENT OF AN AGREEMENT UNDER THE ELECTRONIC**  
**COMMUNICATIONS CODE**

**Paragraph 15(5) of Part 3 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 15(5) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).<sup>1</sup>
2. We [*Insert name of assignee Code operator*] (“**we**” or “**us**”) understand that you, [*Insert name of site provider*], are currently party to an agreement under Part 2 of the Code with [*Insert name of assigning Code operator*] (the “**Operator**” and the “**Agreement**”). Under the Agreement, you agreed to [*confer / be bound by*] a number of Code rights in order to facilitate the deployment by the Operator of its [*electronic communications network / infrastructure system*]. These Code rights relate to land occupied by you at [*Insert address*].
3. The purpose of this notice is to inform you that, on [*Insert date*], the Operator assigned the Agreement to us. This means that the Operator has transferred the benefit of the Code rights [*conferred by / binding on*] you under the Agreement to us, and that we are (from the date of the assignment) bound by the terms of the Agreement.
4. Please note that, from the date on which this notice has been given to you, the Operator will not be liable for any breach of a term of the Agreement (unless that breach took place before the date on which this notice was given to you). As a result, should you have any concerns in the future about the exercise of Code rights on your land, please contact us.
5. Our contact address is [*Insert*].
6. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[*Insert date of Notice*]

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## STATUTORY NOTICE

### REQUIRING A CHANGE TO THE TERMS OF AN AGREEMENT UNDER THE ELECTRONIC COMMUNICATIONS CODE

#### Paragraph 32(1) of Part 2 of Schedule 3A of the Communications Act 2003

1. This is a statutory notice pursuant to paragraph 32(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “Code”).<sup>1</sup>
2. The purpose of this notice is to require a change to the terms of an agreement between you, [Insert name of Code operator] and [us/me], [Insert name of site provider] under Part 2 of the Code. [I am/We are] seeking your agreement to this change.

#### BACKGROUND

3. We have entered into an agreement under Part 2 of the Code (the “Agreement”). Under the Agreement, [I/we] [have conferred on you / become bound by] certain rights under the Code. The purpose of these rights is to facilitate the deployment by you of your [electronic communications network and/or system of infrastructure] at [Insert address].
4. Paragraph 32 of the Code explains how a party to a Code agreement may require a change to the terms of an agreement which has expired. It provides that, in the first instance, the party seeking the change should provide notice to the other party of the change that it is seeking and the date on which that change would take place.

#### THE CHANGE WE ARE REQUESTING

5. [I/We] are asking you to agree, from the date set out in paragraph 6 below, that:
  - a. [the Agreement should have effect subject to the modified terms set out in Annex [X];]
  - b. [your existing Code right to [insert details of Code right] should no longer [be conferred by / bind] us;]
  - c. [the Agreement should also [confer on you / bind us to] [Insert details of additional Code right proposed];]
  - d. [the Agreement should be terminated and a new agreement should have effect between us on the terms set out in Annex [X].]
6. The day from which [I/we] propose that:
  - a. [the modified terms should have effect;]
  - b. [the Code right referred to in paragraph 5 above should no longer [be conferred by / bind] us;]
  - c. [the additional Code right referred to in paragraph 5 above should [be conferred by / bind] us;]
  - d. [the Agreement should be terminated, and from which the new agreement set out in Annex [X] should have effect]

is [Insert Date].<sup>[see note (a)]</sup>

#### CONSEQUENCES OF NOT REACHING AGREEMENT

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<sup>1</sup> A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

[SITE PROVIDER VERSION]

7. If, after the end of six months beginning with the day on which this notice is given, [I/we] have not reached agreement with you on the proposals in this notice, [I/we] may apply to the court for an order under paragraph 33 of the Code.

#### NEXT STEPS

8. Any notification confirming that you agree or disagree to the change requested above should be provided to [me/us] in writing as soon as possible and, in any event, before the end of six months beginning with the day on which this notice is given.
9. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:  
[Insert address details]
10. [If you have any questions about this notice, please do not hesitate to contact [me/us] via telephone (Insert number) or e-mail (insert email address).]

[INSERT DATE OF NOTICE]

NOTES AND SUPPLEMENTARY INFORMATION FOR THE SENDER OF THIS  
NOTICE

You may wish to obtain independent legal advice before completing this notice.

- a) Paragraph 32(3) of the Code sets out rules about the earliest date on which you can request that a change to a Code agreement takes effect.

In particular, paragraph 32(3) provides that the day on which you propose that any change has effect must fall:

- after the end of the period of 6 months beginning with the day on which the notice is given; and
  - after the time at which, apart from paragraph 29 of the Code, the Code right to which the existing Code agreement relates would have ceased to be exercisable or to bind you or at a time when, apart from that paragraph, the Code agreement could have been brought to an end by you.
- b) The types of orders which the court may make under paragraph 33 of the Code include an order which has the effect of:
- modifying the terms of the Agreement;
  - modifying the terms of the Agreement so that one of the Code rights set out therein is no longer conferred by or binding on you;
  - modifying the terms of the Agreement so that it confers an additional Code right on the operator or provides that you are bound by an additional Code right;
  - terminating the Agreement and ordering the operator to enter into a new agreement which confers a Code right on that operator or provides for a Code right to bind you.
- c) In determining whether to make an order under paragraph 33, the court must have regard to all the circumstances of the case, and in particular to:
- the operator's business and technical needs;
  - the use that you are making of the land to which the existing code agreement relates;
  - any duties imposed on you by an enactment; and
  - the amount of consideration payable by the operator to you under the existing code agreement.
- d) If the court makes an order under paragraph 33, it may also order the operator to pay you consideration. See paragraph 33(14) for details of how the consideration should be calculated by the court in this case.