

Consultation on 'Designing the broadband universal service obligation'
Shropshire Council Response to Ofcom 22nd June 2016

FAO Ofcom

<http://stakeholders.ofcom.org.uk/binaries/consultations/broadband-USO-CFI/summary/broadband-uso.pdf>

I. Context

This response is provided on behalf of Shropshire Council, via Mrs Lois Dale, Rurality and Equalities Specialist. The technical lead officer is Mr Chris Taylor, Programme Manager, Connecting Shropshire.

We trust that the key factors that we have identified will assist Ofcom and therefore the Government in the design of a Universal Service Obligation (USO) for broadband, and that the design of the USO will proceed as soon as is practicable in order to assist our communities as soon as is possible.

We note that the Ofcom report findings are due to be with Government by the end of the year, and that when in receipt of Ofcom's analysis, proposals for draft secondary legislation will be published for scrutiny and consultation. We wish to advise that Shropshire Council intends to also respond as an individual local authority and in commonality of support with the LGA to this forthcoming consultation around the USO detail and scope, and how it is to be implemented.

Can we suggest that the Department for Culture, Media and Sport (DCMS), together with Ofcom, not only continues to ensure that a range of opportunities are in place for stakeholders to comment but also takes advantage of the consultation channel afforded by the new national digital engagement council, which we have been given to understand is to be set up in the coming weeks.

We have previously commented on the Broadband USO to the Digital Economy Unit at DCMS. We have also responded to the BIS Select Committee Inquiry into the Digital Economy, including offer to seek to represent rural local authorities and thus rural communities and businesses via the national digital engagement council. Our offer remains on the table to contribute to national policy development on the USO and other related digital inclusion matters through this and other mechanisms.

Shropshire is a sparsely populated and predominantly rural county, where no area is uninhabited but where all inhabitants expect equitable access, online or otherwise, to facilities and services. With just under one person per hectare (0.96 persons; 310,000 population; source ONS mid year estimates 2014), for a terrain covering 319,736 hectares, the county size is approximately ten times that of all Inner London Boroughs (31,929 hectares; source ONS Census 2011).

Without access to fast and reliable broadband, Shropshire will continue to be disadvantaged economically and socially. The Council sees digital connectivity as a key policy to supporting economic growth and to supporting the resilience of communities and individuals in a challenging financial environment. For all communities, the absence of assured connectivity continues to have adverse impact.

II. Technical response to Ofcom, June 2016

a.) Specification and scope of the USO

How should the minimum technical performance of the USO be specified?

Download speed:

10 Mbps is an adequate short term aspiration. However, as described in our April submission to Government, "...*the increasing requirements of technology and consumer demands*" means that the speed will need to be regularly reviewed and upgraded to accommodate technology advancement. We have also said that:

- *"A USO should be set with a service specification that provides residents and businesses with adequate and reliable speeds. The specification should provide for 'digital by default' public services at peak times."*

Upload speed:

National average upload speeds for connections between 2 Mbps and 10mbps are poor (0.5 Mbps) and have remained static since 2012. The USO specification should be ambitious and obligate providers to provide consistent uploads speeds of at least 1 Mbps.

The Shropshire view, again as already stated, is that: *"We would encourage the Government to consider a split obligation between download and upload speeds at a ratio of 4:1 minimum in order to address the critical business need and function of data upload speeds"*.

There should be at least 2mbps as a starting point - upload capability remains a critical component for business operations.

Reliability:

To prevent residents and businesses suffering from long term broadband outages, Universal Service Providers (USPs) should be obligated to fix faults with connections within appropriate timescales. The USO must also fall under the broadband compensation scheme the Government introduces as part of the Digital Economy Bill.

Monitoring of USO performance:

Ofcom must monitor the USO to assess whether or not USPs are adhering to its specifications. OFCOM should continue to support consumers to improve the connection performance in their homes, and provide them with tools to easily monitor their speed, and report back poor results via a simple feedback process. There should be a compensation process if the provider is failing to meet specification.

Uniform pricing of broadband services or caps on charges?

Inevitably, there will be variance on cost and affordability between places depending upon economic, social and geographic characteristics. It is important that any cap or uniform pricing takes into account local circumstance to avoid disadvantaging those areas, particularly in remote rural locations, where residents might be asked to incur above average expense to be connected and, as a result, continue to be digitally excluded. Should the market perhaps be charging a rate that is reflective of the actual speed? Up until recently, ADSL customers would pay the same rate whether 20Mbps or sub 2mbps – it is a moot point as to whether this can really be regarded as reasonable. The Shropshire view is that the USO price level should reflect sub SFBB speeds.

Should there be a social tariff for broadband services?

Yes - in order to prevent further digital exclusion, a social tariff should be put in place, in a similar manner to the telephony USO, for those who would face undue hardship having to pay for broadband services. This is particularly important when it is taken into consideration that some technological solutions can have high monthly costs with expensive data caps, and that local government transactional services, including Universal Credit, are increasingly shifting online. From a social inclusion angle, many of the Department of Health funded programmes on self-care and the associated programmes of health promotion are increasingly web based as well.

In support of this, may we point to the following commentary we made to the Science and Technology (Commons) Committee Inquiry into Digital Skills, extract as follows:

“...with moves such as digital access to benefits from April 2016, there is a wider issue here around the recognition needed at national level that getting the digital infrastructure in place at local level, such as internet access in libraries and community hubs, is only part of what is a very complex answer to reducing digital exclusion. There remains a worrying imbalance between the numbers of people who are functionally illiterate, but will need to be able to know how to actually use the internet in order to apply for benefits, etc, and the numbers of volunteers available and able to help such people to develop the associated skills necessary for using the technology”

b.) Demand for the USO

What might the potential demand for the USO be?

Councils are still rolling out superfast broadband coverage and, as such, do not have conclusive data on which premises will qualify for a USO. However, there is evidence that demand will be high amongst those premises that qualify:

- The demand for vouchers as part of the BDUK voucher scheme was high. This has led to some councils looking to roll out similar business focussed schemes.
- If the USO is adequately marketed, and the benefits of faster connectivity explained, demand will rise naturally. In the BDUK programme, well-funded demand stimulation programmes have led to improved take-up of services from both residents and businesses. Shropshire take-up is projected to

exceed 40% over the contract term. Those areas with particularly poor broadband speeds (sub 2Mbps) have significantly exceeded these take-up projections.

Government has a role to play in publicising the benefits of better broadband, eg better education skills and opportunities/environmental health/social inclusion.

An obligation should be placed on central funding to support national campaigns for taking up better broadband, and sharing of the key national messages ie better educational skills and employment opportunities; greater ability to respond to digital-by-default exigencies; enhanced social and environmental benefits; mental health and well-being, and increased social inclusion.

There needs to be coordinated funding with local bodies to drive demand. Bodies could work with industry - they know their communities. The Local Enterprise Partnerships present as appropriate vehicles for any coordinated funding.

c.) Efficiency and proportionality of the USO

Cost Evidence

Ensuring efficiency

Transparency:

Universal Service Providers (USPs) must be transparent when calculating their per premise costs, allowing them to face wider scrutiny. To provide greater clarity, it might also be beneficial for providers to publish guidance for consumers on how these costs are calculated. Where possible, Ofcom should benchmark costs for standard services provided by USPs.

Aggregation:

Adjacent properties should be allowed to aggregate their demand and make a collective request for a service to share costs.

Aggregation of premises solutions, regardless of type, ie commercial or domestic or both, would provide a more cost effective solution. We would like to suggest that opportunities be explored with relevant bodies, eg the Country Land and Business Association, on behalf of tenants in tied property on land estates, and eg social housing providers including local authorities. If a process could accommodate such a scheme, this would assist not only suppliers but also communities and businesses.

Proportionality and definition of a 'reasonable request'

If a resident or business wishes to sacrifice certain specifications to incur less installation costs, there should be suitable flex in the USO specification. This would prevent the market excluding areas that could cost-effectively be upgraded to receive speeds of 6-8Mbps, but could cost considerably more to deliver a 10Mbps service.

The LGA view, supported by Shropshire, is that providers should absorb the majority of costs, even in situations where costs are disproportionately large owing to remote locations. The whole purpose is to allow all premises to have access to the defined USO. If a premises owner opted for a reduced specification, this would discriminate against the next occupier who may want to upgrade to the full USO specification.

Offering variables would inevitably complicate the process, with any gains in flexibility needing to be weighed up against considerations such as what might happen when a resident seeks to move house or a business seeks to relocate. The actual property may be potentially less marketable and attractive to potential householders or investors if the digital connectivity package in place is viewed as inadequate for a new occupant.

d.) The universal service provider or providers

How should the universal service provider be designated?

This could be demand led, allowing an occupant to go to a select list of suppliers to commission a connection. The potential risks with this approach are the long term viability of the solutions and of the companies supplying them. One way to mitigate the risk would be for Government to be underwriting the scheme and assuring the suppliers.

In order to encourage competition in the market and secure value for money for the consumer, Ofcom should allow multiple suppliers to provide the USO.

It might be helpful for smaller alternative network suppliers if the procurement process or framework was broken down regionally.

e.) Funding of the USO and potential market distortions

Funding of the USO

Preference for an industry-funded scheme underwritten by Government as above. Councils have already contributed over £700 million to extend the provision of superfast broadband. Local government finances are under significant pressure not least from adult social care costs and are not in a position to be able to make further contributions.

The reduced funding in the public sector and funding of councils within England does not recognise the higher costs of service delivery in rural areas, and creates pressure on how we can afford to continue to deliver services where they are needed, and ensure that we ourselves demonstrate fairness in how we do so.

For example, Shropshire Council and partners are already working together to innovate and drive efficiencies alongside improvement, using and sharing resources in a smarter way. This includes seeking to generate more income to help offset reductions in central government funding.

Shropshire also has a disproportionately older population, with resulting challenges for commissioners and providers of services including social care and community mental health care, notwithstanding complete remodelling of its adult social care operating model. These challenges may be physical as well as digital ones, due to the nature of the often hilly terrain and a dependency on key arterial road routes, presenting practical challenges and costs in attaining both physical and digital connectivity.

How could any potential market distortions of competition be minimised?

Essential that measures are put in place to prevent unintentional overbuild. OFCOM should explore an appropriate mechanism for providers to register their planned provision and coverage.

f.) Review of the USO

When, and on what basis, should the USO be reviewed?

Frequency:

Shropshire Council reiterates calls on the Government to legislate for the USO's minimum speed to be reviewed at appropriate intervals and upgraded when necessary to reflect the needs of users as well as the capabilities of the market.

We would suggest at least a bi annual review.

Basis:

The capability of current market speeds must be a serious consideration when upgrading the minimum speed. In partnership with the communications industry, the Government could stipulate the USO minimum download speed as a percentage of average national download speeds. This would provide a milestone to aim towards upon the review of the speed. This policy approach would assist in managing new technology entrants and capacity requirements. If 'the killer application' arrives that requires more bandwidth, the USO will need to shift accordingly.

Review mechanisms:

From a digital inclusion angle, Shropshire Council would like to suggest as per our preface that the new national digital engagement council, on which we have already offered to sit, presents a suitable forum for helping in such reviews. The digital engagement council could also maintain a watching brief on progress towards achievements at agreed milestone stages, and act as a repository for feedback.

We would also recommend involvement of stakeholders in reviews, including: the LGA; the Rural Services Network; the CLA and the NFU and Rural and Farming Networks on behalf of the land-based sector; and relevant parliamentary mechanisms including APPGs and Select Committees.

Appendix to Shropshire Council Response to Ofcom 22nd June 2016
Copy of technical information previously provided to DCMS 18th April 2016

FAO Digital Economy Unit re Broadband USO Consultation
<https://www.gov.uk/government/consultations/broadband-universal-service-obligation>

Key Request to Government

- Shropshire Council calls on the Government to legislate for the USO's minimum speed to be reviewed at appropriate intervals and upgraded when necessary to reflect the needs of users as well as the capabilities of the market. A speed of 10 Mbps will quickly become outdated with the increasing requirements of technology and consumer demands.
- A USO should be set with a service specification that provides residents and businesses with adequate and reliable speeds. The specification should provide for 'digital by default' public services at peak times.
- Connections provided under the USO should be independently monitored to ensure the standard is being achieved.
- We would encourage the Government to consider a split obligation between download and upload speeds at a ratio of 4:1 minimum in order to address the critical business need and function of data upload speeds.

Do you have any concerns about the approach that has been set out here?

- Residents will have a right to request a 10Mbps service that is "affordable". The usual, definitional difficulties associated with affordable spring to mind as an immediate problem. How many alternative technologies would pass this test and will a rate of affordability be set nationally or locally (to reflect the expense incurred in Shropshire).
- The response to a request must be "technology neutral" and should be 'supplier neutral' but also must be delivered by "the most cost effective means possible". If a property is not in any commercial or intervention build plans, how is a satellite solution of 10Mbps going to be cost effective at a household level?
- It is important that the Government specify appropriate criteria for the reliability, latency and quality of a connection. To be useful to residents and businesses, broadband needs to enable them to conduct their online activities during peak hours.

We do not propose to specify speed in primary legislation. Should speed be specified in primary or secondary legislation?

- The Government needs to be clear on its long-term plans to build flexibility into the speed definition? Opting for secondary legislation may allow for this. 10Mbps by 2020 is immediately seen as a short term aspiration which will need revising upwards by 2025 as a fixed USO speed will quickly become outdated with the increasing requirements of technology and the needs of businesses and households.
- At the very least, a definition within the legislation needs to be considered for a minimum USO speed and connection. This should have a specification that allows residents and businesses to reliably access public sector services which are “digital by default,” at peak times.

In terms of giving the Secretary of State a power to direct Ofcom to review the USO, should Government have a continuing role in the USO, or should this be a matter for Ofcom?

- The Government should retain overall responsibility and veto over Ofcom who should retain the regulatory role.
- The Government have a natural ambassadorial role for the UK's digital economy and should align its digital strategy with the USO.

Chris Taylor

Programme Manager
Connecting Shropshire
Shropshire Council
April 2016