

openreach

ISIS practice
For Openreach & Partners

EPT/OAM/F072

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About this document ...

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Content approval

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by Rubi Kochar, Code and Planning Policy and Compliance Manager

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1 *Introduction*

This ISIS has been produced to provide guidance to planning and survey teams when working on any task that requires the installation of apparatus on private land or within the public highway (also known as “adopted highway” and often referred to as “roads” in Scotland).

It lays out the obligations and regulatory requirements bestowed on us by law, that as a representative of BT (who are the Statutory Undertaker) we need to comply with. This guide will help you understand these obligations and how to deal with them to ensure that we are legally and environmentally compliant in what we do.

Each section will give you policy information on how to deal effectively with the legal and environmental expectations that are fundamental to the delivery of our network and the success of our business.

This ISIS applies to all applications for apparatus in these areas except for Masts, dishes RADIO AND ANCILLIARY apparatus that has its own ISIS document TMN/RSM/B159 and TMN/RSM/B160.

2 *Purpose*

This Policy applies to all Openreach people involved in Surveying, Planning, Network Build & Controls (which for the purposes of this Policy includes all Openreach partners, employees, consultants working on or on behalf of Openreach whether permanent, fixed-term or temporary).

2.1 **Purpose**

This Policy is intended to:

- ensure Openreach complies with all applicable Legislation covering Statutory Undertakers as defined in the Communications Act 2003;
- sets out the key areas that must be considered when surveying and planning future network and where to go to find the relevant details for each topic
- specify responsibilities for the prevention of breaches in both Legislation and Code of Practises requirements, and
- set out the consequences for the business if we fail to meet our obligations in relation to Code & Planning Legislation.

3 ***Compliance with this ISIS***

Compliance with this ISIS is mandatory. Both Openreach Personnel and its Partners are responsible for preventing, detecting and reporting instances of any breaches or failings to comply with the policies detailed in this document.

Non-compliance with the Policy will not only pose risks for Openreach but could also have an impact on our ability to build the network at pace, if our permitted development rights are compromised.

This policy should be used in conjunction with your own processes dependant on your Line of Business (LoB) or work stream. See [Planning Policy & briefings](#) for more details.

4 ***The Code & Planning Compliance Team***

The Network Regulations 'Code & Planning' Compliance team are part of the Legal Risk and Equivalence Team and it's key responsibilities are to review the latest legislation, Codes of Practice, Joint Accords and document policies to ensure the business acts and is compliant with them.

The team work with other parts of Openreach to liaise with government on amendments to legislation, creating Joint Accords and Agreements to help drive the delivery of FTTP.

There is a functional email account to ask questions, seek advice or report any issues or concerns with the policies or business practises that you feel may lead to a breach - regs.advice@openreach.co.uk

There is also more detail on specific topics in the [Network Regulation Website](#).

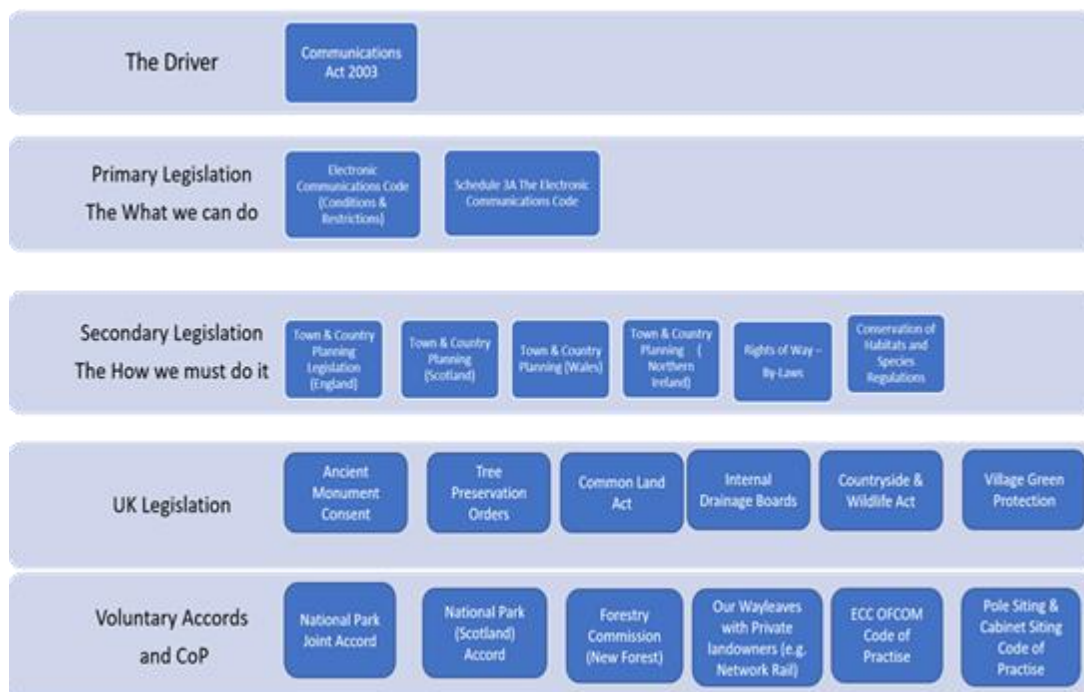
Any new innovations in processes or products should ensure that the Network Regulation [Innovations Checklist](#) is completed and responses sent to:

— net.regs.innovation.checklist@openreach.co.uk

The Team currently operate as Openreach's second line of defence and to fulfil that obligation they carry out 2nd line assurance tests on both Direct labour teams and our Partners. The reports / findings are shared with the Openreach Assurance Management Unit (AMU) who in turn report to the OR Board Audit, Risk & Compliance Committee (OBARCC) .

5 Key Legislation

5.1 Overview



The Government introduce laws that govern who, what, when and how a statutory undertaker can install their telecommunications network across the country. Primary legislation governs all 4 state nations and details what can be done and how it should be delivered.

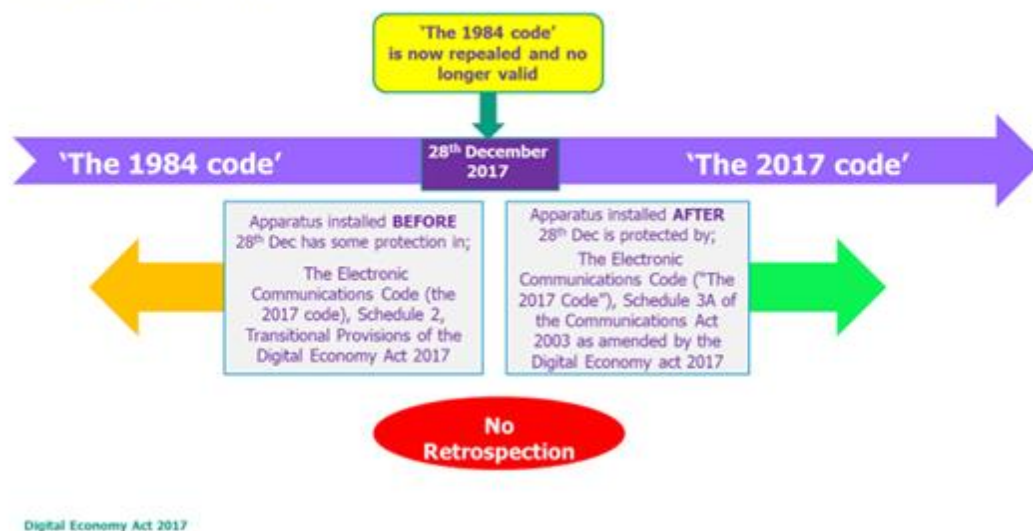
Secondary legislation can vary from country to country as legislated by each Government assemblies.

In addition to these, there are many pieces of UK legislation and Codes of Practice that we need to take account and follow when we plan and build the network.

The Network Regulations Code and Planning Team create planning policy and documentation to explain the legislation as it impacts on our processes. These are detailed in this ISIS and others.

5.2 The Code

Electronic Communications Code (The Code) The Code' – Timeline



- When we talk about 'The Code', we are referring to The Electronic Communications Code.
- The Code has had several amendments since its introduction in 1984.
- We are currently governed by [Schedule 3A of the Communications Act 2003](#) which was then amended by The Digital Economy Act 2017 which came into force on the 28th December 2017.
- The aim of the new Code is to provide modern regulation that supports the rapid rollout of a digital communications infrastructure, including 4G/5G networks, fibre first, superfast broadband and future generations of technology.
- Ofcom also brought in a Code of Practice to be followed (see section 8) with emphasis on great engagement with landowners and Governing bodies, paramount in any installation.
- The Code gives BT statutory powers to install their electronic communications systems through Openreach. It is fundamentally the most important document in BT

5.3 The Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (as amended)

The Electronic Communications Code (Conditions & Restrictions) Regulations 2003 is a piece of legislation that outlines the types of permissions we need to

obtain before works start on installing apparatus in the Publicly Maintainable Highway.

The Regulations explain our rights and responsibilities in certain areas and details how we should operate in these areas. It also puts conditions in place that Openreach must follow, and these are detailed in the Network Regulations ISIS, Policies and Briefings.

The Electronic Communications Code (Conditions & Restrictions) Regulations 2003 is primary legislation with which we MUST comply.

It is the responsibility of the planner and surveyor to make sure that all the relevant permissions have been obtained and the conditions have been followed. The job pack should contain the relevant information on both areas before the job is sent for execution.

If you do not get the relevant permissions and the job is issued and the apparatus is installed, you are seriously putting the business at risk of the following;

- We could be asked to remove the apparatus at our own cost - this could potentially cost tens of thousands of pounds depending on what the apparatus is.
- Our brand could be damaged if we install apparatus without the right permissions and as result, a negative story is published in the press about us.
- Legal action could be taken against us because of not having the right permissions in place for a piece of apparatus.

Remember - This is the law so we must be compliant

The Regulations govern how & when we notify the Local Planning Authorities (LPAs) when we intend to install above ground apparatus.

These 'Licence Notifications' now come in 2 different forms: A 'Regulation 5' or 'Regulation 8' notice.

Full details of the relevant legislation and designations and procedures can be found in ISIS documents EPT/OAM/F073, EPT/OAM/F025 & EPT/OAM/F026.

5.4 The Town & Country Planning Acts

- This legislation varies depending on where you are in the country and there are some slight differences between planning regulations in England, Scotland, Wales and Northern Ireland
- There are 2 main pieces of legislation which affect protected areas and several other pieces of legislation which affect particular designated areas only
- The [Town & Country Planning Acts](#) which varies depending where you are in the UK.

- Both the Town & Country Planning Acts and The Regulations have been amended to allow certain relaxations for the installation of fixed line broadband. These amendments have been made permanent which is great news for FTTP rollout.

Further information can be found on our [Network Regulation Website and in ISIS EPT/OAM/F025](#).

6 *Training and Accreditation*

This section refers to training and accreditation that is available through Openreach Learning Home for all Openreach direct labour.

For a person to be licensed to work on the BT network he/she must have completed the necessary training and accreditation. For specific manpower roles like survey and planning these will include Network Regulation modules.

A trilogy of Web Based Training (WBT) courses has been designed to help with the understanding of The Code, The Regulations and Town and Country Planning. This can be found on the Learning Home web site using the course code **ORWAY011, ORWAY010 and ORWAY012**

- ORWAY010 – The Code
- ORWAY011 – The Regulations
- ORWAY012 – Town and Country Planning

In addition, there is a tutor led course available to give you and an understanding and appreciation of the Electronic Communications Code and Regulations in relation to planning our network. It will explain the consequences of when we get it wrong, how to avoid easy mistakes and an understanding of where to find answers to varying Network Regulations Code and Planning questions. This course is interactive and delivered over Teams to work through more complex scenarios where you may need to install our network and offers the opportunity to discuss the legislation commitments through working examples. People must complete the S013 accreditation within 28 days of completing this course.

- ORLDR0474- Network Regulations – ½ day tutor led Network Regulations training

And the accreditation is detailed in ISIS:

- AEI/ACC/S013 – Network Regulations Accreditation Module

It is Openreach's policy that these must be completed (along with the other relevant modules) for a person to be licensed to work as a surveyor or planner.

The following Openreach direct labour manpower roles are required to complete all the WBT's and the ½ training and pass the accreditation

- Surveyor
- Mobile Planners
- Field Based Co-ordinator
- Clerk of Works
- Repayments Project Manager, Repayments Project Engineers, Network Rearrangement Professionals,
- Network Assessor

All other manpower roles are encouraged to sign up for the ½ day training course with agreement from their manager as part of their personal development plan and their training co-ordinator.

To be licensed to work on the network all manpower roles should complete the Network Regulations accreditation.

For Partner accreditation refer to the Skills matrix and Smart Awards or contact your local Partner Manager.

7 ***Survey & Planning Toolkit***

This Toolkit has been produced to provide guidance to planning and survey teams when working on any task that requires the installation of apparatus on private land or within the public highway.

This guide will help you understand these obligations and how to deal with them to ensure that you are compliant and legal in what you do.

Each section will give the user information on how to deal effectively with the legal and environmental expectations that are fundamental to the delivery of our network and the success of our business.

[Survey & Planning Toolkit](#)

[To note -The Planning Toolkit is available on Candid Information Centre in the Network Regulations Folder for access by our Partners.](#)

8 ***Codes of Practice***

- The Regulations are supported by an industry [Code of Practice](#) (CoP) which the business has agreed to follow.

Key points in this CoP are:

1. Engagement with all relevant Authorities (including Historic England, Parish Councils etc.) at the same time as issuing the Regulation Planning Notices (licence notification),
2. Erect pre-notices on site (England Only) when proposing to install a new pole.

- In addition, OFCOM also published a Code of Practice to compliment The Electronic Communications Code (The New Code). The key focus is around the following Points:

1. Good, early engagement with landowners,
2. 3 stage process of; Site Survey, Consultation & agreement and Deployment,
3. OFCOM example of a written agreement (not mandatory),
4. Redevelopment and Repairs to landowner's land.



ECC-Code-of-Practice.pdf

Electronic Communications Code – Code of Practice

9 *The Environment*

BT must not knowingly damage the environment and must comply with any statutory requirements. However, it is impossible to know every situation where this could occur. BT must therefore seek information from the occupier / controller of land as to the best route, placement of equipment etc.; in order to minimise environmental impact.

One of the most useful tools available to us that identifies where environmentally sensitive areas are is the DEFRA [Mapping Tool - Magic](#). We encourage the use of this during every survey/planning activity.

Detailed information on procedures for survey/ planning in these areas can be found in ISIS EPT/OAM/F026 and EPT/OAM/F073

This section gives a summary of the types of areas we need to be mindful of and where to find additional information.

National Parks

- It is essential that we start dialogue with the appropriate authorities at the planning stage and issue our Regulation 5 Notice to the Local Planning Authority in advance of any works. Remember we need agreement to trim trees or bushes (Ofcom approved 28 days notice to the land owner) and watch out for any Tree Preservation Orders (TPO). Refer to the Joint Accords below;

— [England Joint Accord](#)

[Scotland Joint Accord](#)

Tree lopping / TPOs

- With millions of poles located across the UK and tens of millions of overhead cables it is inevitable that we will come across the need to lop trees and branches to install and maintain our network. We must gain consent from the landowner for trees on private land. We must also advise the local authority when we plan to lop trees in a Conservation area or seek permission to work on Trees Covered by a TPO.
- We can issue a statutory notice to the owner of the land where the trees are situated. They then have 28 days to object in the form of a counter notice. If this period passes without objection, we can proceed. If they object and we still need to proceed, we can then apply to the tribunal.

— ISIS – EPT/OAM/F044 and Planning Policy Briefing [785](#)

The New Forest / Forestry Commission

- ALL jobs planned on Forestry Commission (FC) land and / or in the New Forest must abide by both the process and the stated criteria outlined in found in ISIS EPT/OAM/F073 and Planning Policy Briefing [499](#). This process requires that all representatives of Openreach and our partners, communicate well with the Forestry Commission, The New Forest National Park Planning Authority, The Verderers and Natural England at every stage.
- Good communication is vital to our success. If the Forestry Commission know and understand what we intend to do on their land, there will be no surprises and ultimately no delays in getting wayleaves issued or delays to installation & repair tasks, and the relationship between Openreach and the the Forestry Commission remains positive. The Forestry Commission controls over 1.7 million acres of land across the UK so we need to ensure we have the ability to deliver products and services for our customers in these areas.

Under NO circumstances should any work be undertaken in 'THE NEW FOREST' unless you speak to John Binding, Nigel Marris BOS45 or Josh Barnes BOS51 for advice on the process and you consulted and follow the instructions detailed in [Policy Briefing 499](#).

Listed Buildings

- With changes to the Legislation we now need to notify the Local Planning Authority (LPA), using a Regulation 5 licence notification of our proposed works. BUT, paramount to this is good engagement with the LPA and the local historical bodies (eg Historic England) who can request reasonable alterations to our plans within the 28 day notice period. We also need a wayleave from the property owner if the apparatus will be used to serve 3rd parties. Failure to engage could result in the apparatus being removed and the company's brand being damaged.

— [Policy Briefing 693](#)

Areas of Outstanding Beauty / Conservation Areas

AONBs are also designated under Section 5 of the National Parks and Access to the Countryside Act 1949 which also require we give 28 days' notice. This can be done in the same letter as the licence notification under The Regulations.

Canals & River Trusts / Scottish Canals

- Before we plan any works on land owned by either the Canals and River Trust or Scottish Canals in Scotland, we must first gain their consent. Each of the organisations has a Code of Practice on their respective websites and instructions on how to approach them to make a works application. Please note Canals in Scotland are also listed as Ancient Monuments and as such, approval will also be required from Historic Scotland before any proposed works. - More information on the [Network Regulations Website](#)

Waterways

- These areas are often owned or managed by private land owners. Check with [Wayleaves Archives](#) for any existing agreements which will detail the procedures we need to follow.

Marine and National Nature Reserves / Natura 2000 sites

- In Marine & National Nature Reserves we need to give at least 56 days' notice in advance to the Local Planning Authority under Regulation 8. You must send a notice informing them of our proposals with a plan of where the apparatus is to be installed along with the planners contact details. We must get written permission back before we can proceed with the works.

We **MUST** also get permission from the relevant government advisory body for the protection of the environment in the specific country (eg Natural England, NatureScot etc.) This can involve specific notices to be sent under the Habitat Regulations – see ISIS [EPT/OAM/F073](#) for full details

Ancient Monuments

- Avoid wherever possible putting new equipment near Ancient Monuments, Not sure where they are? (they aren't always obvious, Hadrian's wall is a pile of bricks in places but still ancient), consult the DEFRA [Mapping Tool - Magic](#) where you can search by address and identify the less known ones. We must issue a Regulation 5 notice to the Local Planning Authority, **BUT in addition** we have obligations to liaise with all the appropriate authorities (e.g. Historic Scotland) which can involve applications for ancient monument consent and

this can be time consuming consequentially, if we get it wrong it could be Brand damaging. For Procedures and more details see EPT/OAM/F073

World Heritage Sites

- The UK government has signed up to the [World Heritage Convention](#) and currently there are 31 sites in the UK with this special status. Consultation with the appropriate bodies is paramount before we consider putting our apparatus in these locations.

Internal Drainage Boards

- There is a significant part of the UK that the water course and land drainage is closely managed by Internal Drainage Boards. If we are planning to put apparatus in these areas we MUST get their permission in addition to issuing Regulation notices to the Local Planning Authority.
 - Planning Policy Briefing [729](#) has full details

Flood Risks

- Inevitably water will seep into our underground network and occasionally a Highway Authority will raise a Section 81/140 report of escaping water which is causing a hazard. We have a duty to try and identify the source (sometimes its mains water and not mother nature) and we have a process in place to respond. Speak to Asset Assurance Team for details. If we are pumping water from a box or chamber we must follow ISIS directive : SFY/HSB/D051 – Water test

SSSI

- Sites of Specific Scientific Interest (SSSI) locations still retain protection in all areas as especially sensitive sites. They should be avoided where possible but if we need to install in them we must notify the Local Planning Authority using a Regulation 8 notice and allow a 56 day period for the permission to be granted.
- We must also consult with the official government bodies (links below) to check any if particular restrictions or method statements required;

Please copy & paste the following links below to search for SSSI info and obtain contact information;

- **England** - [Natural England SSSI](#)
- **Scotland** - [Natural Scotland SSSI](#)
- **Wales** - [Natural Resource Wales SSSI](#)
- **Northern Ireland** - [N Ireland SSSI](#)

- We are also likely to need to gain permission under the Wildlife & Countryside Act, 28 days in advance. Note this may also apply in the vicinity of a SSSI.
 - See EPT/OAM/F073 for the procedures surrounding this

Common land & Village Greens

Common land

- Common land is owned, for example by a local council, privately or by the National Trust.
- Some common land has different rights, so you may be able to use it for other activities, for example horse-riding.
- You cannot drive across it without permission unless you have the [right to access your property](#)

For development on Common Land, Section 38 consent must be sought in line with the Commons Act 2006. However, exemption is given under 38 (6) d for the purpose of provide Communications network - [Common land guidance sheet 9](#)

Before installing on either of the above areas we must have permission to do so from the person/body that controls or maintains it

— See EPT/OAM/F027

Village Greens

- Many greens are owned and maintained by local parish or community councils. Some are privately owned. Find out where your local common land or village green is by contacting [your local council](#). It keeps the 'Register of Common Land and Village Greens' for your area.
 - Each entry in the register includes:
 1. a description of the land
 2. who has rights to use it, and what those rights are
 3. who owns it, or who owned it when it was first registered
- See EPT/OAM/F027

10 Wayleaves

— What is a wayleave?

It is a written agreement with the occupier of land or property to install and keep apparatus on private property that serves a third party or a tenant

— **When do I need one?**

Any time we want to install and keep our apparatus on someone's private land or property to give someone else telephony service

— **When don't I need one?**

For own service installations (when the occupier and end customer are one and the same) and for installations that fall within the public maintainable highway (also known as the adopted highway).

— **How do obtain one?**

Openreach secures wayleaves in one of two ways.

1) A signed-on site – This is where we take forms to the occupier on the day of survey and at the end of the discussions ask him to sign permission for the works.

2) Through the wayleave team – This is where the wayleaves team receive a request from the operational team to write to someone to obtain consent.

— **Who can I turn to for support?**

You can find more information about wayleaves [here](#) at the Wayleaves Wise website! And in ISIS EPT/OAM/F027

Wayleave Policy

The business has agreed several Wayleave Policies to ensure we stay compliant with the Legislation and the team can help explain these in detail. For example, rates for wayleave payments, solicitors' fees etc [Wayleave Wise](#) SharePoint site has details on all these policies

Contact Wayleaves Archive for information on current agreements – archive.ripple@openreach.co.uk and / or Wayleaves Help - via wayleave.escalations@openreach.co.uk

11 ***Permission to Work (PTW)***

Openreach needs to have permission to put equipment onto private property and **we should always ask before installing any equipment**. Good communication and engagement with the land owner is crucial to any installation. Where we have an existing agreement or the "work to be completed" is for their own service then a wayleave is not required. There is a "Permission to Work App" on the engineers phone that can be used to get the landowner to sign on the day or alternatively there is a paper version that can be left with the occupier of the land to arrange to have the landowner complete a "PTW formwise" and return it to BT.

A Permission to Work form **does not replace the need for a written agreement** if we are installing apparatus on their land for third party use. (See Wayleaves section)

[Planning Policy Briefing 728 – Use of PTW](#)

[Planning Policy Briefing 613 – Use of CBT's](#)

[Planning Policy Briefing 807 – use of cbts on MDUs](#)

12 ***Absent Landowners & Unregistered Land***

It is the responsibility of the Planner or Surveyor to ascertain the Land or Property Ownership of any land other than the Public Highway where our apparatus is installed. This includes public open spaces, utility areas and commons etc. Some guidance can be found in the ISIS EPT/OAM/F020_

They can check on BT systems or [MAGIC](#) (the Defra web site) and [Land Registry](#) using call off accounts paid for by Openreach as well as making Local Enquiries. ([Access to Land Registry can be requested here](#)) If after all these enquiries no ownership or interest in the land can be established then a notice can be posted, copies of the notices are available from the [Regulatory Advice Team](#). We will discuss with you the level of risk in each case.

Unregistered land should be avoided where installing in protected areas or when installing major apparatus such as cabinets.

The public highway should always be the first option as this affords us more protection.

[Unregistered Land Process](#)

13 ***Poles & Pole Noticing***

Correct and compliant installation of our poling apparatus is essential. If we do not install poles correctly we run the risk of complaints, brand damage and possible legal action. As a complaint, poles are one of the most emotive subjects that we deal with. Each case must be investigated individually, therefore it is essential that we get it right.

Mandatory steps to follow for a compliant installation

Pre-Notice – England Only

BT has agreed to follow the Cabinet & Pole Siting Code of Practice, which was introduced to help speed up the roll out of Superfast broadband and improve the engagement with relevant Authorities as part of the planning & installation process.

Therefore, before we install a new Pole in England, we must install a Pre-Notice in as close proximity as possible to the proposed apparatus, indicating to nearby residents the intention to install a pole.



PRE NOTICE WORD
Nov 2020.pdf

Mandatory Licence Notification – Regulation 5

we must issue a notice to the local Planning Authority a minimum of 28 days in advance of our apparatus being stood, this includes poles. If we receive no reply to the Regulation 5 notice we may stand the pole after 28 days. If the local planning authority reply to the notice with no objection inside the 28-day notice period, then the pole can be stood sooner.

Pole Notices

BT has an obligation to affix notices in respect of overhead apparatus when it is installed three or more metres above the ground. This is a legal obligation that allows a person who is the occupier or people with an interest in the land to formally object to BT in respect to the apparatus within 12 months of its installation.



wBT Pole Notices
(A273) Nov 2020.pdf



BT Pole Notices
(A273) Nov 2020.pdf

You can find a lot more information about Poling on our website [here](#) including details of the documents and processes.

Also ISIS document EPT/OAM/F044 contains additional information on Pole Noticing and Objections.

14 *Linear Obstacles*

Sometimes there is a requirement to cross a linear obstacle like Network Rail. For more information on this look at the [Openreach Network Rail site](#)

15 *Data Protection*

Keeping data safe, reducing the risk of it being compromised, lost or improperly accessed is all of our responsibility.

You can contact the Openreach Data assurance and get additional help and support by contacting them at dataprivacy@openreach.co.uk

16 *ISIS Document Links*

A full list of the Network Regulation ISIS Documents can be found in the [Network Regulation SharePoint site](#) and within Candid Information centre Network Regulations folder

All ISIS documents are available through the [Bookstore](#).

17 ***Planning Policy Briefing Links***

A full list of the Network Regulation Planning Policy Briefings can be found in the [Network Regulation SharePoint site](#) and within Candid Information centre Network Regulations folder

All Planning Policy Briefings are available [HERE](#)

18 ***References***

- The Electronic Communications Code (as amended by Schedule 3A to the Communications Act 2003)
- The Electronic Communications Code (Conditions and Restrictions) Regulations 2003
- The Town and Country Planning (General Permitted Development) Order 1995.
- The Town and Country Planning (General Permitted Development) (Amendment) Order 2001, Statutory Instruments nos 2718 and 2719.
- The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013, Statutory Instruments no 1101.
- The Town & Country Planning (General Permitted Development) (Scotland) Order 1992.
- The Town & Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001.
- The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (no2) Order 2014, Statutory Instruments no 2692
- Planning for Telecommunications, DETR Circular 04/99, ISBN 0-11-753502-8.
- Statutory Rule 2003 No 98 Planning (General Development) (Amendment) Order (Northern Ireland) 2003.
- Town and Country Planning (General Permitted Development) order 2015 England Statutory Instrument no 596
- The Conservation of Habitats and Species Regulations 2017 (legislation.gov.uk)
- The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015

- The Conservation (Natural Habitats, &c.) Regulations 1994

19 ***Enquiries***

Enquiries about this document should be sent to the current author or contact regs.advice@openreach.co.uk

END OF DOCUMENT
