

Your response

Question	Your response
<p>Q1. Do you have any comments on our proposals relating to improving the clarity of the Code of Practice?</p>	<p>Confidential? – N</p> <p>We welcome the proposals to improve the clarity of the Code of Practice and agree that the additional explanations and use of examples will remove ambiguity often encountered in negotiations between Operators and Site Providers. We have seen the benefit of the use of examples provided in the Explanatory Notes of the recent legislative changes brought about by way of the TILPA and PSTIA to assist with understanding the intention and requirements under the Code and respective legislation.</p> <p>We hope that by improving the clarity we will see parties to an agreement better understand the expectations of them when negotiating and performing activities under a formal agreement which in turn we hope will see improvements in behaviour towards each other.</p>
<p>Q2. Do you have any comments on our proposals relating to including legislative changes in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We are in agreement with and support the proposals relating to the inclusion of legislative changes in the Code of Practice as we believe this will greatly assist the dialogue between Site Providers and Operators as to why certain legislative changes have expanded the rights afforded to Operators as well as setting out the requirements expected of each party backed by legislation.</p>
<p>Q3. Do you have any comments on our proposals relating to the definition of ‘Site Provider’ in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We are supportive of the proposals relating to the definition of ‘Site Provider’ as we believe this aligns with the definition used in the Code and how the term has been interpreted in decisions before the Upper Tribunal (Lands Division).</p>

<p>Q4. Do you have any comments on our proposals relating to contact information in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We welcome the clarity brought about by the changes relating to the contact information section. Our own internal processes already include provision of up to date contact information to be provided to Site Providers and so we welcome the reinforcement of this requirement in the Code of Practice.</p>
<p>Q5. Do you have any comments on our proposals relating to professional fees in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We do believe it is important to highlight that professional fees must be <i>reasonably and properly incurred</i> and so we are happy to see this reflected in the Code of Practice.</p>
<p>Q6. Do you have any comments on our proposals relating to responding to a request for access in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We are in agreement with the proposals relating to responding to a request for access in the Code of Practice. We are encouraged that the proposals reiterate the importance for Site Providers to respond to requests for access without undue delay.</p>
<p>Q7. Do you have any comments on our proposals relating to electromagnetic fields exposure in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We are in agreement with the proposals.</p>
<p>Q8. Do you have any comments on our proposals relating to the sharing and upgrading of apparatus in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We welcome the reinforcement of the rights under the Code for Operators to upgrade and share their apparatus and we hope this will positively impact negotiations between Site Providers and Operators on this issue. This has often been a point of contention between Operators and Site Providers in the context of utilising existing infrastructure as part of an Operators network deployment and so we believe the added clarity in the Code of Practice will assist the negotiations between the parties when upgrading and sharing apparatus.</p>

<p>Q9. Do you have any comments on our proposals relating to ADR in the Code of Practice?</p>	<p>Confidential? – N</p> <p>We have no objections to the proposals relating to ADR in the Code of Practice. However, it is worth highlighting that the option to use ADR will vary on a case by case basis and there may be justified and legitimate grounds to not pursue the option of an ADR scheme if there are network deployment time constraints to take into consideration. We recognise that the proposals in the Code of Practice does take this into account by suggesting that Operators are required to consider ADR, <i>if it is reasonably practicable to do so.</i></p>
<p>Q10. Do you have any overarching comments on our proposals for the Code of Practice (included in its entirety in Annex 2 above)?</p>	<p>Confidential? – N</p> <p>We are pleased to see the balance struck by the proposals in clarifying the rights provided to Operators under the Code and recent legislative changes as well as protecting the necessary interests of Site Providers and their respective sites. We believe that the review of the Code of Practice is timely given the increased scale of network deployment in recent years and the greater dependency on securing the most appropriate sites to install electronic communications apparatus. We very much hope that the proposed updates to the Code of Practice and compliance with the same will continue to build the trust between Operators and Site Providers and allow each party to respect and recognise one another's interests.</p>

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