

Ofcom Consultation on the Electronic Communications Code

Proposed Code of Practice, Standard terms of Agreement and Standard Notices

Response by Simon Pike

This response addresses one specific point in Paragraph 4.23 of the consultation, which is part of the draft Code of Practice. This paragraph describes relevant information that a landowner should seek to provide as part of the site survey process. The final bullet of this paragraph includes "public rights of way" as one element of this information. However, this is incomplete for England and Wales, and incorrect for Scotland.

I support the response made by the Mid and West Berkshire Local Access Forum, which addresses the situation for public access to land in England (also applicable to Wales). The legal framework for Scotland is substantially different, and is described well in the key for Ordnance Survey Landranger maps for Scotland:

PUBLIC ACCESS

Rights of way are not shown on maps of Scotland.

In Scotland, everyone has access rights in law* over most land and inland water, provided access is exercised responsibly. This includes walking, cycling, horse-riding and water access, for recreational and educational purposes, and for crossing land or water.

Access rights do not apply to motorised activities, hunting, shooting or fishing, nor if your dog is not under proper control.

*Land Reform (Scotland) Act 2003

The Code of Conduct therefore needs to address fully the various types of public access to land. To do this clearly, public access to land should be addressed in a separate bullet with a footnote:

- Public access on the site or adjacent to the site:
 - In England and Wales, this includes access land created under the Countryside and Rights of Way Act 2000, permissive footpaths and bridleways¹, and 'other routes with public access';
 - In Scotland, this includes access rights established under the Land Reform (Scotland) Act 2003.

¹ footpaths and bridleways along which landowners have permitted public use but which are not rights of way, for example, under Section 31(6) of the Highways Act 1980.