

18th of December 2018

Tenant Connectivity consultation
Digital Infrastructure Directorate
Department for Digital, Culture, Media and Sport
100 Parliament Street
London
SW1A 2BQ

Dear Sir/Madam,

Ensuring tenant's access to gigabit-capable connections

Thank you for the opportunity to respond to the above consultation. The Residential Landlords Association (RLA) are very grateful for the opportunity to highlight their views as an organisation in relation to the Department for Digital, Culture, Media and Sport consultation on 'Ensuring tenant's access to gigabit-capable connections.'

About the RLA

The Residential Landlords Association (RLA) represents the interests of landlords in the private rented sector (PRS) across England and Wales. With over 30,000 subscribing members and an additional 20,000 registered guests who engage regularly with the Association, the RLA is the leading voice of private landlords. Combined, the RLA members manage over a quarter of a million properties.

The RLA provides support and advice to members and seeks to raise standards in the PRS through its code of conduct, training and accreditation. Many of the RLA's resources are available free to non-member landlords and tenants.

The Association campaigns to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of Government to support its mission of making renting better.

1. Would the placing of an obligation on landlords in the manner proposed encourage more landlords to respond to requests sent by operators?

The RLA believe that this is a rather unfair and leading question. Of course, there is an inevitability that putting obligatory demands on landlords by changing the Code to place an obligation on landlords to facilitate the deployment of digital infrastructure will have an impact in the number of landlords engaging with operators. However, this approach fails to address the reason why landlords are having difficulty engaging with operators, fails to look at incentives to support landlords and will simply add further pressures to the courts and tribunal system, which are already plagued with substantial delays, especially in relation to housing issues.

The RLA agree that it is highly desirable to improve the UK's coverage of Fibre to the Premises (FTTP). This will enable all parts of the UK to achieve super-fast Internet connectivity and will support the UK Government's ambition for the UK to be the best place in the world to start and grow a digital business. However, the RLA have already uncovered over one hundred forms of individual legislation effecting the Private Rented Sector and over four hundred individual laws that landlords also must adhere to. While many landlords might have sympathy with the overall aims of the consultation, it remains to

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be seen what priority this would be given by landlords, especially with the current climate of laws and regulations.

The proposal to add primary legislation, which will change the Code to add a statutory obligation on PRS landlords to engage with operators, fails to appreciate that many landlords will have legitimate concerns that will delay their response to a wayleave request from an operator. These concerns could include the detrimental effect that work could have on the structure or character of their property, impact on other tenants, concerns over noise during work or other factors that contribute towards general inconvenience or issues relating to the work being carried out.

Moreover, the issuing of statutory demands on landlords appears to miscomprehend the general makeup of the PRS. Some landlords own a portfolio of properties, and given the demands on the PRS, many landlords use the services of a letting agent to support them in the management of their properties. It is not clear from the evidence provided to what extent operators have communicated to the right channels and engaged with letting agents. Rather than put the blame on communication delays solely on the shoulders of PRS landlords, perhaps it would be appropriate to investigate the effectiveness of communication from operators.

2. To what extent would placing an obligation on landlords complement or undermine the facilitation within the Electronic Communications Code of negotiated agreements between landlords and operators?

The RLA believe that placing an obligation on PRS landlords would significantly undermine the facilitation within the Electronic Communications Code of negotiated agreements between landlords and operators.

In our discussions with some broadband providers, they have informed us that the relationship between operators and PRS landlords works at its best when the relationship is based on improving landlord's knowledge base and education rather than the 'stick' of regulation. This proposal ignores those statements and does not appear to contribute towards highlighting the many benefits of improving digital connectivity across UK communities. Notwithstanding the benefit to the UK digital economy, there appears very little mention of the potential benefit to PRS landlords such as improved tenant satisfaction and potential increase in the desirability of the property should the landlord wish to sell in the future.

According to the Boston Consulting Group (BCG), in 2015 the UK Internet economy was the largest of the G-20 countries as a percentage of its GDP. During their research, BCG predicted that the UK digital economy would not only continue to grow but would maintain its leading position – a prediction which appears to remain true with digital services overtaking retail and manufacturing in terms of service specific GDP in the UK. In this context, we agree with several experts in the field that regulation is only required in a market that is failing – evidently this is not the case in the UK Broadband market. Any suggestion that lack of compliance from PRS landlords is affecting the business plans of operators is highly questionable. In truth this is an issue that affects large multi-national companies and often small landlords owning one or two properties.

The RLA have reservations over the effectiveness of the proposed changes to the legislation. The RLA strongly believe that new legislation should only apply to the installation of underground ducts to bring fibre cables not affecting the access to internal buildings and that this should not inconvenience either tenants or landlords in any manner. In this context, we believe that the new legislation should not apply to the installation of

cables within a building or any internal structure. We further recognise that in order to ensure a safe installation, landlords would be required to submit additional information about the building and the proposals will do nothing to legislate for these needs and could further deprive operators of a meaningful and helpful relationship with landlords.

The RLA also believe that any new legislation or changes to the Code, should only be granted to operators that are installing full FTTP solutions and should not be granted to other forms of Broadband or telecommunications service.

3. Do you consider that the use of the courts for the purpose of granting entry to operators where they have been unable to contact a landlord is reasonable? If not, why not?

While we appreciate that the intention for court use is to ensure temporary access to PRS properties, we have concerns that this could create a precedent in allowing longer term access. With this in mind, the RLA has concerns over any possible infringement of the property rights of PRS landlords. Given the current demands on the courts and tribunals service, we do not believe the courts would be a reasonable method of gaining access to properties. As we stated in a previous response, the proposal has the potential to further delay the work of the court system, which is already characterised by long waits for housing matters.

We understand that the purpose of the proposed change in legislation is aiming to improve access and communication with landlords. However, we have concerns that during the initial enacting of the primary legislation, the change in legislation could create confusion to even those landlords who are happy to grant access. Accordingly, the RLA would like clarification on how the proposed new legislation would be disseminated to landlords and how they would be supported with the changes?

In the first instance, the RLA have questions over the claimed inability of operators to contact landlords. Across the UK, the contact details of all landlords are available from the Land Registry. In Wales, the ability to contact PRS landlords is made even easier with the statutory obligation of PRS landlords to register themselves. Under the Housing (Wales) Act 2014, PRS landlords have a statutory obligation to register their property with Rent Smart Wales. According to the Welsh Government, over 94,000 landlords have registered, the vast majority of the total. Under Section 7 of the 2014 Act, PRS landlords in Wales are required by law to be licenced to carry out property management activities whereas Section 14 of the act stipulates that landlords have a duty to maintain their registration in relation to rental properties. A similar registration regime exists within Scotland.

The RLA believe that any new powers should only apply to landlords who are genuinely uncontactable. Any landlords who have legitimate concerns should not be subject to court action. We also believe that any residual group of landlords who are genuinely uncontactable would be so small as to render a change in the Code unnecessary.

4. Do you agree that two months is an appropriate amount of time to pass before a landlord is considered absent and an operator can seek entry via the courts? If not, how much time would be appropriate?

If by two months no contact has been received from the landlord, then it should be deemed that access or permission has not been granted. However, the right to resort to court action should not be based on time alone. As housing is a matter for the devolved nations, after the two-month period has lapsed, we believe operators should be able to receive contact

details from Rent Smart Wales or the equivalent to ensure they have the correct details. Operators should show that they have exhausted all other reasonable methods including multiple attempts to communicate with clear warnings, investigation of alternative addresses, and attendance at the subject property before they can resort to court action.

5. What evidence should an operator be reasonably expected to provide to the courts of their need to enter a property and their inability to contact a landlord?

An operator must demonstrate overriding need including evidence of a valid request by an end user to provide service which constitutes a settled desire for service and is more than merely fanciful or a speculative enquiry and that the service cannot be provided in any other reasonable manner,

6. Is there a need to define what constitutes a request by a tenant for a communications service?

The RLA are very supportive of improved services for tenants including super-fast Broadband. However, we believe the proposal is going about tackling the problem in the wrong way. As we previously stated in an earlier question, the relationship between operators and landlords works best when it is based on educating landlords on the benefits of improving communications and technology for their tenants. From conversations we have had with some suppliers, the evidence would appear that landlord compliance improves when the benefits are highlighted to them.

We believe that there could be several reasons why landlords have not communicated with operators, which we have previously highlighted. While it is important that the needs of tenants are met, we believe there are often genuine reasons why some landlords have not got back to operators. We would also point out that many landlords operate through agents and improved communication channels could be made to reflect this. Ultimately, court action resulting from a tenant request should only be sanctioned for landlords who have no genuine reason for non-compliance.

7. Do you agree the temporary access granted by the court should be valid until such a time as a negotiated agreement, underpinned by the Code, is signed between an operator and landlord?

The RLA would not support temporary access under any form and we do not believe it is a practical solution. We believe the best model of ensuring safe and efficient work is carried out is by building a strong relationship between landlords and operators. We have concerns that in providing temporary access, without the full cooperation of landlords, operators would be working in premises that they are unfamiliar with. This could be particularly problematic when dealing with blocks of flats and even with some properties dangerous to all parties.

8. Would temporary access granted by the court provide an incentive for landlords to re-engage?

The RLA do not believe that granting temporary access would serve as an incentive to landlords. On the contrary, we believe it would create bad will from landlords within the sector where cooperation is required. In terms of meaningful incentives, based on evidence from our discussions with some Broadband providers, the best way to get landlords

onboard is to educate them on the benefits to them, their tenants and to the wider community.

9. Do you foresee any issues with operator/ landlord negotiations which take place after the installation has taken place?

Potentially there could be numerous problems with negotiations between landlords and operators following the initial installation, which is why we are resolute over our opposition to grant access via the court system and to grant temporary access to PRS properties.

In order for safe and efficient work to be carried out, it is imperative that the landlord is working in partnership with operators rather than operators working on buildings that they are unfamiliar with.

We also believe that the proposals set an unfair precedent, which fails to appreciate the property rights of the landlord and it is unlikely that such a proposal would be given consideration in the owner-occupied sector. Accordingly, the RLA is calling for greater engagement with the PRS and operators to outline the key benefits to landlords and tenants. We also call for operators to adopt a more holistic approach to communication to include agents.

Thank you for giving these views your attention.

Kind Regards,



Douglas Haig
Vice Chairman and Director of RLA Wales