



Department for
Digital, Culture,
Media & Sport

v0.5 Updated and Issued 18/08/2021
(Changes from v0.4 – Added Subsidy Control approach; tailored
guidance for the GigaHubs product)

GigaHubs – Subsidy Control guidance

GigaHubs, under Project Gigabit, follows the precedents from Building Digital UKs (BDUK) Rural Gigabit Connectivity and Local Full Fibre Network and Programmes.

GigaHubs is structured differently from the Supply-Side products such as Superfast. It relies on a “no-subsidy” model, with different requirements. DCMS has no delegated approval function and so Other Government Departments and Local Bodies need to ensure that their projects are consistent with this approach. The recommended approach is for Other Government Departments and Local Bodies to seek their own legal advice on Subsidy Control and this advice will be requested by BDUK through the Assurance process. This note is intended to inform Other Government Departments and Local Bodies in coming to their own views on the Subsidy Control treatment of projects. It is the fifth iteration of the document. **It is not, and is not intended to be, formal legal advice.** However, support will be available from BDUK in coming to that view.

Subsidy Control

Following the end of the transition period on the 31st December 2020, and as of 01st January 2021 the UK must follow its international obligations on subsidy control. This includes commitments arising from the UK’s continued membership of the World Trade Organisation’s Agreement on Subsidies and Countervailing Measures, and obligations set out in Chapter 3 of Title XI of the Trade and Cooperation Agreement (TCA) between the European Union and the United Kingdom.

Subsidy Control eligibility

The TCA establishes the principles of the UK’s subsidy control arrangements, and BDUK has reflected upon how best to demonstrate its compliance with the principles for the purpose of GigaHubs. Other Government Departments and Local Bodies must use and comply with the approach set out in this guidance.

BDUK considers that funding to OGDs or Local Bodies, to upgrade connectivity to public sites that are performing a public function **and** where there is a demonstrable need – evidenced through a business justification case – falls under the "exercise of governmental authority" exemption in the TCA. The BDUK approach is unchanged and the Supporting Documents provided within this document remain relevant.

The Subsidy Control team at the Department for Business, Energy & Industrial Strategy (BEIS) has lead responsibility within the UK for coordination and development of policy on subsidy control. BEIS has published guidance for public authorities which can be found on the government website:

<https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

Delivery Mechanisms – From Local Full Fibre Networks, to Rural Gigabit Connectivity Programme to GigaHubs

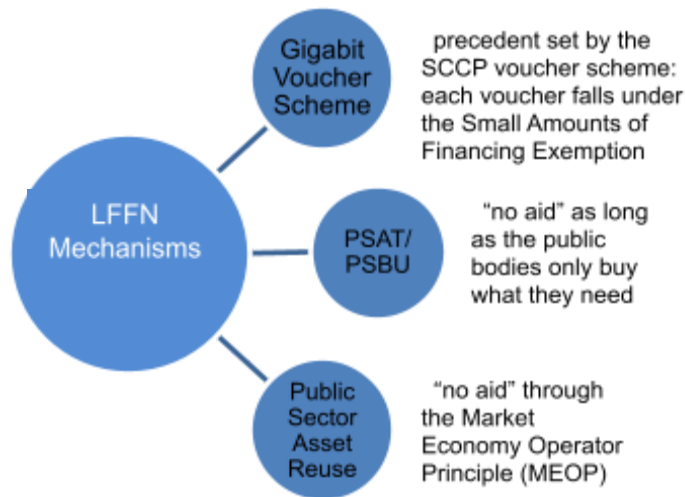


Figure 1 - LFFN Delivery Mechanisms - 4 Mechanisms, 3 approaches

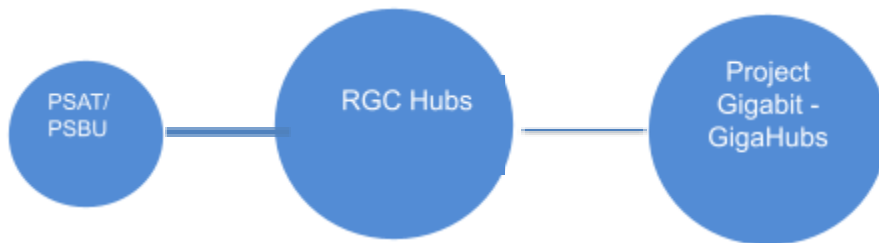


Figure 2 – Evolution of the Delivery Mechanisms to one approach