

# Get in on the Act

Digital Economy Act 2017

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### Background

The Digital Economy Act 2017 (the Act) makes provision about electronic communications infrastructure and services, including the creation of a broadband Universal Service Order (USO), to give all premises in the UK a legal right to request a minimum standard of broadband connectivity, expected to be 10 megabits per second (Mbps). The Act also introduces reform of the Electronic Communications Code, and provides greater clarification on data sharing between public bodies.

The Digital Economy Bill was introduced in the House of Commons on 5 July 2016, completed its parliamentary stages and received Royal Assent, becoming law, on 27 April 2017. The Bill followed an announcement made in the Queen's Speech to introduce legislation seeking to make the United Kingdom a world leader in the digital economy.

The Act is made up of six parts as follows:

1. Access to digital services
2. Digital infrastructure
3. Online pornography
4. Intellectual property
5. Digital government
6. Miscellaneous.

This publication aims to provide readers with an introduction to the Act and summarises the main issues on which the Local Government Association (LGA) lobbied on behalf of councils.

## The role of the LGA and local government in influencing the legislation

The LGA worked with MPs and peers to provide background information and research on the proposals, support amendments to the legislation, and influence Government policy. Our campaigning was developed with the support from and input of councils from across the country, and our work with parliamentarians on the Act secured a number of positive outcomes for local government. This included:

- The LGA's Up to Speed campaign, has called for greater broadband connectivity, and has supported our engagement with the legislation. Following publication of the Bill, Cllr Mark Hawthorne, Chair of the LGA's People and Places Board, said: "The creation of a broadband Universal Service Order (USO) as a safety net for those residents and businesses with poor connectivity is good news."
- Having advocated the introduction of a broadband USO before the Bill's publication, we worked with the Government to ensure it remained central to the Act. Throughout the Act's passage we supported parliamentarians in attempts to strengthen the USO, as minimum speeds should rise in-line with average speeds across the country.
- Amendments which we proposed, including ensuring the minimum standard of broadband is affordable for all communities, saw the Government commit to exploring the feasibility of introducing a social tariff. A social tariff would enable the least-well off to afford the costs of connectivity by providing financial support, particularly in hard-to-reach areas.
- We suggested amendments which would prevent residents from facing lengthy and costly periods without a broadband connection, and ensure residents would receive compensation within reasonable timescales. The Government pledged to work with Ofcom on producing guidance for compensation timescales after the Act's publication.

# The key provisions and their implications for local government

The Act contains 120 sections (clauses) and nine schedules (schedules are used to spell out in more detail how the Act's provisions are to work in practice). Set out below is an explanation of those provisions which will have an impact on the way local authorities provide services, and which we sought to influence.

## Access to digital services

### **Section 1: Universal service broadband obligations**

The key provisions for local government in the Act are contained in Part 1. Section 1 introduces the broadband USO, which guarantees by law the right of all residents to request a basic level of broadband, by amending the Communications Act 2003.

The Government's intention is for the USO, at its inception, to provide minimum download speeds of 10Mbps for all premises, while the Act does not specify minimum upload speeds. However, the Government will direct Ofcom to recommend the USO has minimum download speeds of more than 30Mbps, if it appears that over 75 per cent of premises are accessing at least 30Mbps already. This provision was inserted following concerns raised by the House of Lords that the USO's speeds would not keep pace with the rate of technological change.

Section 1 also provides for formal Government oversight of the USO by enabling the Secretary of State for Culture, Media and Sport to direct Ofcom to review and report on its implementation. Ofcom will be responsible for overseeing and regulating the broadband USO, which will be implemented by commercial providers.

### **Section 2: Switching providers**

Section 2 gives Ofcom the power to obligate communications providers to make the switching process easier, especially in cases where they have bought bundled packages, for example broadband, mobile and television combined.

The Government's ambitions to empower consumers to more easily switch providers, helping to reduce household bills and encourage price competition, is encouraging. As part of this, Ofcom should explore the viability of collective switching initiatives in the communications market.

### **Section 3: Consumer compensation for failure to meet performance standards**

Section 3 allows for consumers to receive automatic compensation when their broadband services are below standard. The obligation will be on providers to pay compensation when they fall below the standards specified by Ofcom and the Government.

This is a positive step for local residents, however we would like to see it strengthened, as the Act currently leaves open the possibility of providers delaying the payment of compensation.

## Digital infrastructure

### **Section 4: The Electronic Communications Code**

Part 2 of the Act, and related schedules, amends the Electronic Communications Code, which permits operators to construct infrastructure on public land and grants rights to install equipment on private land. The code pre-dates the introduction of mobile networks and is widely considered to be in need of reform.

Section 4 reforms the rights that communications providers have to acquire land, moving to a regime that ensures property owners will be fairly compensated for use of their land, but restricts their ability to profit from the public need for communications infrastructure.

The LGA supports the simplification of the process for installing or upgrading digital infrastructure, which will accelerate the roll out of mobile coverage. It is important commercial operators work in partnership with councils to find the most viable locations for new infrastructure and ensure communities are properly engaged.

## Miscellaneous

### **Section 114: Digital skills training for adults**

Section 114 commits the Government to providing publicly-funded basic digital skills training free of charge to adults in England who need it. Courses will be delivered by colleges and other adult education providers, and training will be funded from the existing £1.5 billion Adult Education Budget (AEB).

The LGA supports further devolution of the AEB to local authorities in England. However, for many areas, the additional costs of providing free digital skills training will see local budgets increasingly stretched. This is a particular risk in places with high unemployment and low skills levels where a large proportion of the budget will be spent on statutory entitlements.

## Next steps

We will continue to work on behalf of councils to ensure this legislation is deliverable, particularly as the Government draws up secondary legislation and guidance on the USO's long-term specifications. We will also continue to seek adequate funding for councils to deliver the new digital skills training for adults.

## Note of thanks

Throughout the passage of the Act through Parliament we worked closely with our Vice-Presidents from the 2016/17 session, as well as other MPs and Peers, briefing them ahead of debates and suggesting amendments. On behalf of local government, we are grateful to all those parliamentarians who supported us and championed the concerns and arguments of councils.

## Useful links

For the full text of the Act, please refer to: [www.legislation.gov.uk/ukpga/2017/30/pdfs/ukpga\\_20170030\\_en.pdf](http://www.legislation.gov.uk/ukpga/2017/30/pdfs/ukpga_20170030_en.pdf)

For the LGA's briefings on the Act, please refer to: [www.local.gov.uk/parliament/briefings-and-responses/digital-economy-bill](http://www.local.gov.uk/parliament/briefings-and-responses/digital-economy-bill)

This publication provides an introduction to the Act and summarises the main issues on which the LGA campaigned. Further information is available by contacting: [publicaffairs.team@local.gov.uk](mailto:publicaffairs.team@local.gov.uk)



### Local Government Association

Local Government House  
Smith Square  
London SW1P 3HZ

Telephone 020 7664 3000  
Fax 020 7664 3030  
Email [info@local.gov.uk](mailto:info@local.gov.uk)  
[www.local.gov.uk](http://www.local.gov.uk)

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