

Superfast Broadband and the Digital Divide

Purpose

For discussion and direction.

Summary

This paper provides members with:

- a national update on superfast broadband and mobile connectivity policy.
- an update on related LGA activity in these areas.
- an update on the member-commissioned Up to Speed campaign on which members will receive a presentation at the Board.

Recommendations

Members are asked to note the update and agree the future focus of the Board's digital connectivity work as outlined in paragraph 17.

Action

Officers to take forward as directed by members.

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Superfast Broadband and the Digital Divide

Background

1. Since the first meeting of the 2015/16 People and Places Board cycle, members have made clear that improving the digital connectivity of residents should be a priority of this Board. Over the course of the Board's work programme, members have already commissioned a [detailed survey](#) of local authorities involved in the Superfast Broadband Programme to guide the LGA's lobbying direction, hosted Broadband Delivery UK (BDUK) Chief Executive, Chris Townsend, and questioned him on the performance of Superfast Broadband Programme and the Government's Mobile Infrastructure Project at the January Board meeting, and commissioned a national 'Up to Speed' campaign to raise awareness of those businesses and residents still without adequate broadband speeds.
2. This report provides an update on the developing national policy context, details the latest LGA activity in this area since the last Board, and provides an update on the member commissioned 'Up to Speed' campaign. Members will receive a more detailed presentation on the campaign from officers at the Board.

National Policy Update

3. Since the last Board, there have been several key policy developments that will impact councils and their residents. The main points to note for councils are:
 - 3.1 The Government announced in the Queen's Speech a new Digital Economy Bill which, amongst a range of new measures, will enshrine the Universal Service Obligation in primary legislation.
 - 3.2 The Government has now secured an EU State Aid exemption for future local government broadband procurements until 2020.
 - 3.3 The [first](#) of two consultations on the Universal Service Obligation by the Department for Culture, Media and Sport (DCMS) has concluded (details on the LGA response are provided under LGA activity and in Appendix A). DCMS has also [commissioned Ofcom](#) to undertake a detailed technical analysis to inform and support the design of the USO, which the LGA will respond to with lead member oversight.
- 4 The Government used the Queen's Speech to confirm it will draft a new **Digital Economy Bill**. The Bill, which aims to "make sure Britain remains at the forefront of the global 21st century economy," will enshrine the Universal Service Obligation in primary legislation and includes new measures to help telecommunications providers build infrastructure for faster broadband and mobile networks and creates provision to allow consumers to be automatically compensated when things go wrong with their broadband service. The LGA's used its [On the Day Queen's Speech briefing](#) to respond to the Bill:
 - 4.1 welcoming the creation of a broadband Universal Service Obligation (USO) as a safety net for those residents and businesses with poor connectivity;

- 4.2 making clear the importance of commercial operators working in partnership with councils to find the most viable locations for new infrastructure and ensure communities are properly engaged;
- 4.3 welcoming moves to allow for consumers to receive compensation, seeking clarification on how a connection's performance will be judged and pushing for the compensation process to be simple with an obligation on providers to resolve issues quickly.
- 5 Officers will monitor the Bill through Parliament and advise our parliamentary stakeholders on its drafting. Should any amendments during its passage have negative implications for local government, the Bill will be reclassified as a higher officer priority.
- 6 The Government has now secured an **EU State Aid decision** on future superfast broadband procurements until 2020 (members will recall the People and Places Board Chair wrote to BDUK Chief Executive, Chris Townsend, in January to press for quick agreement and express concern that delays were leaving councils unable to fund new procurements.)
- 7 Unlike the previous procurement process, those digital infrastructure suppliers bidding to be part of the procurement framework will have to open up access to their subsidised infrastructure to fellow suppliers on the framework. With fair and equal access to subsidised infrastructure, suppliers will be able to compete to provide services to the end consumer. This is an important step in increasing competition and aims to help smaller operators participate on an even playing field. As detailed below, the LGA has worked with member councils to improve the sector's knowledge of the range of digital infrastructure suppliers now available in the marketplace.

LGA Activity

- 8 As detailed above, LGA officers responded to the [DCMS consultation](#) (Appendix A) on the primary legislation that will enact the Universal Service Obligation. Our response:
 - 8.1 welcomed the creation of a USO as a step in the right direction;
 - 8.2 called for the USO minimum download speed to ensure residents and businesses in remote rural locations have access to 'digital by default' public services at peak times.
 - 8.3 called for the Government to regularly upgrade the minimum USO download speed to keep up with resident and businesses' demand for speeds, and suggested it be set as a percentage of average national download speeds as defined by Ofcom.
- 9 With lead member oversight, and in consultation with digital connectivity officers across the sector, LGA officers will also respond to [Ofcom's Call for Evidence](#) which will inform its detailed technical analysis on the design of the USO, due in December.
- 10 LGA officers have been working in partnership with Government, the mobile industry and the Planning Officers' Society on a refresh of the industry owned [Code of Best Practice on Mobile Network Development in England](#). The Code provides guidance on how mobile network operators (MNOs) should interact with landowners and planning

authorities when installing mobile infrastructure. LGA officers, in conjunction with the Planning Officers' Society, have advocated on behalf of councils and pressed for drafting to include an onus on MNOs to liaise with councils' digital connectivity teams as part of their consultation process and to agree appropriate community engagement processes with local planning authorities where possible. The Code will be published in July and officers will seek to finalise these points in the document.

- 11 The LGA and BDUK hosted an event on 17 March for council officers, councillors and BDUK officials to discuss how best to procure solutions to reach the final five percent of premises without broadband. The event was an opportunity for councillors and council officers to explore the capabilities of alternative technologies and digital infrastructure suppliers to extend broadband connectivity to the hardest to reach areas. Attendees heard first-hand from the Government's Market Test Pilots on their innovative technological solutions, and from council officers and members on their experiences using "alt net" providers and procuring within and outside the Government's National Procurement Framework. Chaired by Cllr Hawthorne, the event was attended by over 50 delegates from the sector and received excellent feedback.
- 12 Finally, the People and Places Board Chair and LGA officers have held separate meetings with Mobile Network Operators (MNOs) EE and Hutchinson 3G UK (Three) to discuss their commercial roll out plans in rural hot spot areas and explore how both sectors can continue to develop helpful partnerships locally. Officers have also had preliminary meetings with Ofcom to understand how they can work in tandem with councils to ensure the commercial roll out reaches as many rural communities as possible. A future meeting is also planned with Vodafone.
- 13 Council officers have highlighted the need for MNOs to improve at sharing their commercial roll out plans with councils to help with efforts to provide better connectivity to residents. With all four MNOs signed up to provide voice coverage to 90% of the UK's landmass, and Telefonica (O2) obligated to provide 98% of the UK population with 4G coverage by 2017, it is an opportune moment for local government to engage with the mobile sector. As such, officers have suggested that the Board might wish to explore the role the LGA and local government can play in this agenda going forward.

Up to Speed Campaign

- 14 The Board-commissioned [Up to Speed](#) campaign and website was launched in May. The campaign provides councillors, council officers and members of the public with a set of resources, including a speed test, case studies and a toolkit, that helps them become more informed about how they can improve their speeds. Officers will provide a more detailed update on the campaign's progress at the Board
- 15 At the time of writing, the campaign has:
 - 15.1 featured in a double page spread in [First Magazine](#) (April 2016) received by over 10,000 councillors.
 - 15.2 partnered with the Daily Telegraph's Better Broadband campaign and received [front page coverage](#) (8 May) with a quote from the People and Places Chair, with follow up coverage and quotes from the People and Places Board Chair on [9 May](#) and [10 May](#). In response to the media coverage, Minister of State for Culture and the Digital

Economy, Ed Vaizey MP publicly clarified the Government's position on the USO stating that it will "look at ways to allow communities to lodge a single request for a whole area, instead of many individual ones [...] and commit to keeping the initial minimum 10mbps speed under review, with the power to increase it if necessary, to make sure it keeps pace with consumers' needs."

15.3 reached over half a million Twitter user timelines with a range of residents, councillors and Board members taking the test and tweeting their results.

15.4 had over 3,000 page views of the campaign website with almost 500 people having taken the speed test. Tests have been taken across over half the council areas in England – already exceeding the campaign's initial coverage target. Those individuals that have taken it include MPs, councillors, council officers, peers and members of the public. At the next Board members will receive the results and conclusions drawn from the speed tests themselves.

16 Officers will continue to build on the early success of the campaign. Future activity includes:

16.1 writing over 50 targeted letters to MPs who have shown interest in the digital connectivity agenda, including members of the Culture, Media and Sport Committee to highlight the campaign. The Board Chair has also written to Minister, Ed Vaizey MP, suggesting a meeting to discuss shared objectives on digital connectivity.

16.2 submitting a range of oral questions to key MPs for parliamentary dates including the Culture, Tourism and Sport oral questions, as well as any debates which focus on broadband coverage.

16.3 continuing to develop case studies and monitor further opportunities for the campaign to feature in local and national media and increase the amount of speed tests taken.

Future focus of the Board

17 For the new 2016/17 cycle it is suggested the Board's work on digital connectivity focusses on three areas:

17.1 continuing to build on the Board's work to date including developing the Up to Speed campaign;

17.2 monitoring and reacting to policy developments in this area including the passage of the Digital Economy Bill and working with Government and Ofcom on the design of Universal Service Obligation;

17.3 expanding the Board's work to focus on improving mobile coverage, exploring the role the LGA and local government can play in the mobile connectivity agenda going forward.

Next steps

LGA officers will:

- 18 Continue to develop the Up to Speed campaign, aiming to have a speed test taken in at least 65 per cent of English council areas by the next Board. Officers will provide the Board with a written update in September.
- 19 With oversight of lead members, continue to engage with Government and Ofcom on the design of the Universal Service obligation and the drafting of the Digital Economy Bill as it passes through Parliament.
- 20 With oversight of lead members, draft a work programme with a focus on mobile connectivity for approval at the next Board.

LGA submission to the Department for Culture, Media and Sport consultation on a broadband Universal Service Obligation

April 2016

Appendix A

1. About the Local Government Association

- 1.1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government.
- 1.2. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

2. Summary

- 2.1. Access to fast and reliable digital connectivity is no longer a luxury, it is a necessity. It is something residents and businesses expect in their premises; a vital component for supporting growth in urban and non-metropolitan areas, and an essential enabler of public sector digital transformation and wider public sector reform.
- 2.2. Councils have strongly supported the extension of access to fast and reliable connectivity through the Superfast Broadband Programme. The sector sees it as a fundamental part of their efforts to unlock economic growth – the roll out is projected to return £20 in net economic impact for every £1 of public investment by 2024¹ - as well as to help enable more of their residents and local businesses to self-serve, and their workforce to operate efficiently both in and out of the office. As a result, many councils are aiming to extend provision beyond the Programme's target of passing 95 per cent of premises and, in some places, are hoping to achieve closer to 100 per cent by using funding from claw-back clauses in supplier contracts.
- 2.3. Despite this, there will inevitably be some premises, mainly from remote rural areas, that won't be reached by the current tranches of work. In these communities, digital needs are already acute, with businesses and residents, including homeworkers, still suffering from poor digital connectivity. As such, the LGA welcomes the creation of a broadband Universal Service Obligation (USO) as a safety net for those residents and businesses not connected. The LGA calls on the Government to legislate for the USO's minimum speed to be reviewed at appropriate intervals and upgraded when necessary to reflect the needs of users as well as the capabilities of the market. A speed of 10 Mbps will quickly become outdated with the increasing requirements of

¹ UK Broadband Impact Study Impact Report November 2013 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257006/UK_Broadband_Impact_Study_-_Impact_Report_-_Nov_2013_-_Final.pdf

technology and the needs of businesses and households.

2.4. The creation of primary legislation to enable the Secretary of State to enact a USO presents an opportunity to crystallise a key principle behind the USO: that at a bare minimum, it will provide residents and businesses with adequate and reliable speeds that allow them to access 'digital by default' public services – like Universal Credit, or renewing a driving licence – and importantly, at peak times. Many remote rural areas have well below 2 Mbps speed during key periods, including when school children get home, during school holidays, and after 6pm. This is unacceptable and as such, connections provided under the USO should be independently monitored to ensure speeds do not fall below 10 Mbps during peak hours.

3. Do you have any concerns about the approach that has been set out here?

3.1. As the consultation process for the creation of a USO begins, there remain some uncertainties over how it will be designed and delivered, as well as how it will be monitored. When the Government presents more detailed proposals, the LGA will be seeking clarification on the following areas:

3.2. As well as a minimum standard set for download speed, it is important the Government specify appropriate criteria for the reliability, quality and upload speed of a connection, in secondary legislation. To be useful to residents and businesses, broadband connectivity needs to enable them to conduct their online activities during normal peak hours. It will be important that the Government, through Ofcom, monitor average USO connection performance to ensure suppliers provide connections that abide by this standard and the minimum USO download speed at all times.

3.3. It is sensible the USO is designed as a demand-led approach but only if digitally excluded residents and businesses are well informed of the benefits of faster speeds. It will be important that the USO works alongside local government digital inclusion strategies to increase the digital skills of communities and encourage more small businesses to get online. To highlight this point, 23 per cent of UK adults, as well as 23 per cent of small businesses, do not have the basic digital skills necessary to take advantage of the internet.

3.4. The Government should also explore helping communities and residents make their own arrangements or to aggregate their connection requests to encourage suppliers to provide them with a connection. Communities may wish to install their own alternative infrastructure if they feel the speeds provided under the USO are unacceptable.

The LGA has launched an Up to Speed campaign to raise awareness amongst residents of the benefits of faster speeds. It also provides a series of success stories, including other successful demand-led approaches fronted by the community, where residents have installed faster speeds under their own initiative.

3.5. It will be important for the Government to clarify how the affordability and cost-effectiveness of connections will be defined, enforced and how these costs will be met. Inevitably, there will be variance on cost and affordability between places depending upon economic, social and geographic characteristics. It is important the

benefits and risks of local versus nationally set standards are weighed up to avoid disadvantaging those areas, particularly in remote rural locations, where residents might be asked to incur above average expense to be connected and, as a result, continue to be digitally excluded.

- 3.6. Finally, we would like clarification on who will ultimately be held accountable for the success of the USO and how the process itself will be clear and transparent. If a decision is made that a premise cannot be connected due to overwhelming cost, that decision will need to be open to scrutiny by residents, businesses, and locally elected officials.

4. We do not propose to specify speed in primary legislation. Should speed be specified in primary or secondary legislation?

- 4.1. A fixed USO download speed will quickly become outdated with the increasing requirements of technology and the needs of businesses and households. Therefore, if specifying an exact download speed in secondary legislation allows for the minimum speed to be quickly reviewed and updated, then it is to be supported. Nevertheless, at the very least, the primary legislation should clarify that any minimum USO download speed and connection should enable residents and businesses to reliably access public sector services which are “digital by default,” at peak times, whether that is submitting a tax return, universal credit form or, for farmers in remote rural areas, completing forms online to receive funding. To aid this process, the Government should provide and regularly update a national minimum standard of speed required to access its ‘digital by default’ services.
- 4.2. The capability of current market speeds should also be a serious consideration when upgrading the minimum speed. As such, achieving 10 Mbps by 2020 should be seen as a short term aspiration and something to be built on. Nationally, demand for and availability of faster speeds continues to grow with many areas already having the digital infrastructure in place to cope with demand. It is estimated that the average maximum download speed already available to residents in the UK is over 120 Mbps.² When compared with those areas with poor connectivity, this highlights how big the digital divide could become if we are not ambitious enough with the USO. Therefore, in place of specifying exact speeds in the primary legislation, the Government should instead consider stipulating a minimum download speed as a percentage of average national download speeds as defined by Ofcom. This would also place less pressure on the need for upgrades via secondary legislation to be agreed.
- 4.3. Finally, the consultation outlines that the Government is “considering an additional measure in primary legislation which would provide the Secretary of State with a power to require Ofcom to review the USO, as appropriate.” The LGA supports this addition to the primary legislation and suggests a review should take place at regular intervals, with the next taking place in 2020 and with the aim of setting a more appropriate higher target for 2025. This will ensure that people and small businesses that rely on the USO do not fall behind as the demand for faster broadband connections grow.

² <http://labs.thinkbroadband.com/local/>

5. In terms of giving the Secretary of State a power to direct Ofcom to review the USO, should Government have a continuing role in the USO, or should this be a matter for Ofcom?

- 5.1. To achieve universal coverage of both fixed broadband and mobile connectivity, the Government has an important leadership role to play in ensuring the country's digital infrastructure can compete globally. It must continue to work in partnership with local government, Ofcom and industry to incentivise the market to extend access to hard-to-reach areas.
- 5.2. Many of the Government's wider public service ambitions depend on citizens, businesses and the public sector workforce having fast and reliable broadband connectivity. As more central and local government services become 'digital by default,' more people will need to have fast and reliable speeds. This was highlighted most recently when the Government announced that, during this Parliament, HM Revenue and Customs (HMRC) will move to a fully digital tax system "with the information HMRC needs automatically uploaded, bringing an end to the tax return."³ Similarly, the Government's ambitions to integrate health and social care depend on citizens, health, social care and voluntary sector workers being able to access and share real-time data which is dependent on reliable connectivity. The Government cannot move services online and make the efficiency savings it needs without maintaining a continuing role in the USO.
- 5.3. The Government will also have an important role in aligning its digital strategy across departments with the development and maintenance of the USO. As an example, the USO will need to tie in with the Government's work to map public sector networks and other digital infrastructure, including the extensive fibre networks running alongside the UK's rail and motorways, as part of efforts to understand how existing capacity can be utilised to extend provision across the country.
- 5.4. It will also need to ensure there is alignment with the commercial roll out of 4G and opportunities for the sharing of backhaul sites, which can be very costly to provide in rural areas. In the absence of the Mobile Infrastructure Project, the Government will still need to ensure mobile network operators remain committed to rolling out coverage to those areas that remain poorly connected. Part of this will be working with Ofcom to encourage MNOs to share clear definitions of their commercial plans across postcode areas, with councils. This will help them respond to the broader digital needs of their residents and potentially support broadband USO interventions by sharing the use of backhaul sites.
- 5.5. Finally, local government also has a vital role to play at the centre of digital delivery, including helping shape where and how the USO might be delivered. Councils are best placed to understand the wider digital needs of local areas. They are at the

³ HM revenue and Customs: Making tax digital - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484668/making-tax-digital.pdf

15 June 2016

centre of improving superfast broadband connectivity through the Superfast Broadband Programme, raising residents' and businesses' digital skills through a range of local initiatives, and improving mobile connectivity by working with mobile operators on the best placement of infrastructure. Moving forward, it will be important digital infrastructure suppliers, mobile network operators and councils are able to openly share their infrastructure roll out plans to ensure efforts to improve the connectivity of local residents and businesses are as joined up and efficient as possible. Where there are national borders it will also be important for councils and devolved administrations to work cross-border on rural broadband issues to maximise cost efficiency and to avoid duplication.