

SUBMISSION REGARDING THE CONSULTATION ON THE PROPOSED REFORMS TO THE NPPF

‘National Planning Policy Framework and other changes to the planning system’ [\(Link\)](#)

Responses received by email PlanningPolicyConsultation@communities.gov.uk

or responses received online [here](#). Closing Date 24th September 2024

Scope of this consultation: “The Ministry of Housing, Communities and Local Government is **seeking views** on how we might revise national planning policy to support our wider objectives. Full details on the scope of consultation are found within Chapter 1. Chapter 14 contains a table of all questions within this document and signposts their relevant scope. In responding to this consultation, we would appreciate **comments on any potential impacts on protected groups under the Public Sector Equality Duty**. A consultation question on this is found in Chapter 13.”

This submission describes why changes to the NPPF policy are needed under the PSED, and, whilst not specifically addressed in the consultation, the legal arguments below justifies Section 10 (121, 122) being updated.

1) INTRODUCTION - WE RECOGNISE LOCAL AUTHORITIES AND PLANNING OFFICERS (LPAS) ARE UNDER PRESSURE.....	2
2) WHY IS IT IMPORTANT FOR LOCAL AUTHORITIES TO BE PROACTIVE NOW?.....	2
3) INVALID CERTIFICATES.....	3
4) IS CURRENT REGULATION SUFFICIENT?.....	3
5) WHAT ARE THE CONSEQUENCES OF NOT SUPPORTING CHANGE IN NPPF POLICY VIA THE 24 th SEPTEMBER CONSULTATION?.....	4
i) RESIDENTS WITH METAL AND PACEMAKERS REMAIN UNINFORMED AND UNPROTECTED.....	4
ii) RESIDENTS MAY WELL CONTINUE TO BE SUBJECT TO LIVING INSIDE PUBLIC EXCLUSION ZONES.....	4
iii) RESIDENTS IN NEWLY ERECTED BUILDINGS MAY WELL NOT BE PROTECTED BY ICNIRP EXPOSURE LEVELS.....	5
iv) MISLEADING ASSUMPTIONS ABOUT PUBLIC EXPOSURE MAY BE LEADING TO COMPLACENT REGULATION.....	5
v) PRIOR APPROVAL - LPAS ARE BEING LEFT OPEN TO JUDICIAL REVIEW AS NOT ALL MAST APPLICATIONS ARE BEING PROCESSED CORRECTLY & THIS IS LEAVING THE PUBLIC AT RISK.....	6
vi) LPAS ARE VULNERABLE TO JUDICIAL REVIEW AS THE GOVERNMENT HAVE NOT CLARIFIED TO LPAS WHAT THE EECC LEGAL OBLIGATIONS ARE & THESE ARE BEING OBSCURED BY MISLEADING WORDING IN THE NPPF.....	6
6) CHANGES IN POLICY.....	7
TO PROTECT THE LPA AND THE PUBLIC, NPPF POLICY NEEDS TO REFLECT THE REQUIREMENT PUBLIC HEALTH NEEDS TO BE MADE IMPERATIVE. ICNIRP GUIDELINES ARE NOT MANDATORY, & KNOWLEDGE OF RISK SUPPORTED BY RECENT SCIENCE IS REQUIRED BEFORE IT CAN BE TAKEN INTO ACCOUNT.....	7
7) EECC LEGAL OBLIGATIONS FOR LOCAL AUTHORITIES.....	8
8) EVIDENCE BEYOND ICNIRP WHICH NEEDS TO BE GUIDED BY POLICY.....	8
i) LONG TERM EFFECTS.....	9
ii) ELECTROHYPERSENSITIVITY /ELECTROSENSITIVITY.....	9
iii) CARBON FOOTPRINT.....	9
iv) FLORA AND FAUNA.....	9
v) SETBACK DISTANCES.....	10
9) REINSTATEMENT OF PREVIOUS POLICIES.....	10
10) SUMMARY.....	12
11) NOTES.....	12
i) TRANSPARENCY – FULL SPECIFICATIONS OF EQUIPMENT.....	12

ii) AUDITORY/SENSORY LIMIT TO PROTECT AGAINST MICROWAVE HEARING.....	13
iii) LEGAL PRESENTATION RE EECC OBLIGATIONS.....	13

1) INTRODUCTION - WE RECOGNISE LOCAL AUTHORITIES AND PLANNING OFFICERS (LPAS) ARE UNDER PRESSURE

We have come to realise that local authorities and planning case officers (LPAS) are in a difficult position, both practically and legally. The regulation of Radio Frequency Radiation (RFR) via ICNIRP certification is proving inadequate - LPAs are not being provided with the full set of details they need to function effectively as regulators—a role directly assigned to them by the government.

Current Policy is resulting in inconsistent confused and contradictory decision making.

Health concerns are increasingly being raised in objections, sometimes supported by detailed evidence, and sometimes not. The lack of full transparency regarding the equipment's power output, operational mechanisms, and protocols is exacerbating objectors' concerns.

The June 2022 report from the WHO's International EMF Project, of which the UK is a member, suggests that local authorities require a comprehensive dataset of specifications to help ensure planners can make informed decisions about infrastructure siting. However, this recommendation has not yet been incorporated into NPPF policy.

2) WHY IS IT IMPORTANT FOR LOCAL AUTHORITIES TO BE PROACTIVE NOW?

Some of these difficulties may be resolved by requesting changes to the open NPPF consultation which closes **on 24 September 2024**.

NPPF Policy 122 is misleading in that LPAS should be **applying ICNIRP guidelines as a health safeguard** but this is often and mostly interpreted that they '**must not take health into account**'. LPAs currently infer that if they have an ICNIRP certificate this is the end of their role. LPAs are not instructed to check whether the certificate is valid in terms of the operator names on the certificate, nor are they instructed to check whether there are any public residences within the public exclusion zone (EZ information is not submitted with applications).

CURRENT POLICY – NPPF paragraphs 121 and 122

'121 Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and

b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or

c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

122. Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure'.

The health safeguard needs to be set. In planning law, if a threshold of evidence is reached that placing 4G/5G mast in a particular location would cause **harm, injury or nuisance** then, a refusal on

health grounds is warranted and case officers have an obligation to actively assess evidence to fulfill this obligation.

The legal status of the ICNIRP guidelines and the compliance statement provided with applications was confirmed by Public Health England's solicitor DLA Piper in 2019.

“Guidance is not maintained and revised by PHE for the explicit purpose of any body undertaking any other statutory function. If in any other context regard is had to the Guidance that is entirely a matter for the discretion of the relevant body and it must determine what weight to place on the Guidance given the clear indication as to the sources from which the advice and recommendations in the Guidance are derived. Equally, that body must determine what other evidence from ... members of the public or interested parties to consider in making any decision”.

It may be legitimate to place considerable weight on the guidance but not legitimate to interpret NPPF policy on the assumption that weight CANNOT be given to other evidence. To the contrary, evidence must be examined before a decision is made about how much weight is given to the ICNIRP certificate and how much weight is given to other evidence. Some Councils acknowledge this, most Councils do not.

3) INVALID CERTIFICATES

Hundreds of ICNIRP certificates have been issued in the name of inactive/dissolved companies or in the name of a company not registered on the Ofcom licensee register or Code Operators register. This renders the certificate as **‘unreliable’** as evidence of safety and brings into question the validity of the proposed operators planning application. The Planning Inspectorate has made it clear that it is the LPA's responsibility to check any Certificates which are submitted as evidence and so the fact that some Councils are denying any obligation to check the validity of the certificate is problematic and brings into question the LPA's ability to act in the public interest to protect the public from adverse health effects of mast siting. The LPAs denial of any responsibility to check the certificate makes a mockery of the regulatory system at the outset. It is Ofcom's obligation to check licensees have a valid certificate, but not identifying invalid ones at the planning stage is unacceptable.

Suggestion: Policy 121/122 could include an instruction that the ICNIRP certificates be checked for validity against defined well defined criteria.

4) IS CURRENT REGULATION SUFFICIENT?

No. Regulation via sole reference to NPPF 121 and 122 is currently failing to prevent harm injury and nuisance.

i) the NPPF policy does not instruct the LPAs that they have risk reconciliation obligations under the European Electronics Communications Code (EECC). Policy 122 does not reflect the fact the procedural standard which does not make ICNIRP guidelines mandatory or exclusive.

ii) there are risks to those with implants/pacemakers below the ICNIRP guideline levels.

iii) Planners do not have access to risk assessments re metal implants.

iv) NPPF policy 121/122 implies that receiving an ICNIRP certificate is ‘setting health safeguards’ but the Policy does not instruct the planning Case Officers to examine the public exclusion zone diagrams which delineate where the unsafe zones extend to.

v) Hotspot maps are not provided with the applications, so risks in these areas are not being assessed.

vi) Telecoms companies are designing Public Exclusion Zones into buildings they assume to be occupied by ‘workers’. This puts pregnant women at risk as the occupants are not instructed to perform fresh risk assessments and sometimes their assumptions about the occupancy are wrong.

vii) There is recent science which is **not** incorporated within ICNIRP guidelines and there is a procedural standard in the 1999/519/EC recommendations which **requires** consideration of recent science.

viii) Evidence exists of risks beyond the ICNIRP guidelines to certain groups i.e. children and those with EHS, and is being presented in objections but this evidence is not being 'taken into account' as LPAs are assuming they 'must not' do so. This is a mis-interpretation of policy.

Suggestion: Changes to NPPF policy are urgent to address these issues.

5) WHAT ARE THE CONSEQUENCES OF NOT SUPPORTING CHANGE IN NPPF POLICY VIA THE 24th SEPTEMBER CONSULTATION?

i) RESIDENTS WITH METAL AND PACEMAKERS REMAIN UNINFORMED AND UNPROTECTED

In April 2024 Judge Jarman acknowledged that there are effects below the ICNIRP guideline to those with pacemakers and metal implants and he ruled that these effects must be taken into account by LPAs when they decide on mast siting. This needs to be reflected in policy.

ii) RESIDENTS MAY WELL CONTINUE TO BE SUBJECT TO LIVING INSIDE PUBLIC EXCLUSION ZONES

There are many examples where plans are being passed with residents inside exclusion zones.

BACKGROUND

Currently NPPF Policy does not require that LPAs check exclusion zone diagrams.

The regulatory intention is that Telecoms companies do not place masts where residents will be exposed to exposures higher than the ICNIRP guideline levels, so the Telecoms applicants calculate a public exclusion zone specific to the power output and design of the antenna, and draw a diagram of where the zone extends to. This zone is a zone within which there is likely to be a breach of ICNIRP's 'basic' exposure limits.

Without seeing the exclusion zone diagrams the planners have to trust that there are no public buildings within the unsafe area. This process is failing as this is not always the case.

Telecoms applicants are not using 3D maps and so **mistakes are being made** where the alignment of buildings and antennae are sometimes misjudged, and Telecoms are designing public exclusion zones into buildings assumed to be office buildings. The latter is problematic because pregnant women are meant to be protected through strict adherence to public limits, as they were made subject to public exposure limits in the ICNIRP 2020 guidelines.

Generally speaking the public exclusion zone diagrams are being withheld from planning authorities and so planners cannot perform the function of 'setting the health safeguard of ICNIRP.' LPAs are guided to 'not set health safeguards other than ICNIRP' but without checking the public exclusion zone diagrams the health safeguard is not actually being set.

INCONSISTENCIES

Stroud Council recently acknowledged the necessity of having sight of the public exclusion zones and the antenna power output. When the applicant refused to provide these, the fact that the applicant withheld this information was weighed as a lack of evidence of safety in Stroud's risk benefit analysis of the application and the mast was refused.

BATHNES Leader of the Council asserted in a planning meeting that exclusion zones should be obtained for a 5G mast proposal in a sports playing field, but the diagrams were not secured. In the

subsequent application to BATHNES the applicant did provide the exclusion zone diagrams. A whole house was found to be within the zone. This was not fully resolved by BATHNES or Ofcom, the resident themselves had to personally contact the Telecoms engineer who made a slight adjustment which still left the zone entering his garden. Subsequently no exclusion zone diagrams have been provided to BANES with 5G applications.

Despite **Cheltenham** having secured exclusion zone diagrams from a previous application, when objectors living at eye level to 17m from a proposed antenna (23/00551/PRIOR) asked the Case Officer to provide the exclusion zones the Case Officer refused to do so, and then approved the mast. The decision is now subject to judicial review.

Brighton Council conceded that they had not done enough to assess proximity when they approved a mast outside a school. Objectors provided them with equivalent exclusion zones as here too, the case officer had not obtained the exclusion zone diagrams when requested to do so. This concession cost the council £13,000.

Matt Warman MP personally overturned a mast approval by phoning his personal contacts in the Telecom company after a 5G mast was approved outside a school in Wrangle, completely bypassing the planning procedures altogether, which clearly demonstrates a need for strict and functioning planning policies focussed on safeguarding public health from the consequences of incompatible and unacceptable use of land and buildings arising from masts/antennas being dangerously positioned due to ignorance re: proximity considerations that must be properly addressed.

Inconsistency in how different applications are being processed within and across different councils is unacceptable.

Suggestion: At the very least Planning Policy needs to require exclusion zone diagrams be provided with the ICNIRP compliance certificate, and Case Officers be required to check them to prevent harm, injury and nuisance.

iii) RESIDENTS IN NEWLY ERECTED BUILDINGS MAY WELL NOT BE PROTECTED BY ICNIRP EXPOSURE LEVELS

The LPAs are not instructed to check ICNIRP compliance public exclusion zones when granting planning permission for new buildings. If the new building penetrates a pre-existing public exclusion zone of a nearby mast, residents of the new building are unknowingly being placed at risk of exposure from higher than ICNIRP exposure levels.

iv) MISLEADING ASSUMPTIONS ABOUT PUBLIC EXPOSURE MAY BE LEADING TO COMPLACENT REGULATION

‘Marketing’ about ‘5G safety’ involves sharing with the public and LPAs that ‘Ofcom’s surveys only ever record 1.5% of ICNIRP guideline levels’ but this is misleading.

Within the 1999/519/EC recommendations there are the tables of ICNIRP reference exposure limits. The ICNIRP compliance certificate is prepared in relation to these guideline limits, however the ‘sensory auditory exposure limit’ set out in footnote 8 of Table 1, which is a small fraction of the ICNIRP basic limit, is not being referenced when the public exclusion zones are calculated.

Importantly, **breaches of this limit are already being seen in public spaces** - See 11) Notes ii) page 14 below for examples in the ‘Ofcom EMF surveys’. Ofcom have failed to acknowledge these. Breaches have been recorded by the public (eg in Radstock and Bath), and reported to the Director of Health but without direction on the matter, the breach remains unaddressed and the public are subject to avoidable harm, injury and nuisance.

The auditory/sensory limit (c. 4,34 V/m) is to protect against 'microwave hearing' which is the hearing of 'popping, clicking and buzzing' sounds which is not clearly distinguishable from tinnitus. The incidence of tinnitus is increasing, (a study published in 2021 indicated that globally, about 10-15% of the population experiences tinnitus to some degree) and so it is vital that this limit is included within regulatory policy and procedures.

LPAs need to be made aware of its existence and be prepared to investigate statutory nuisance complaints when residents inform them of breaches in their locality.

Creating the 'ambience' or milieu that '4G/5G' is safe, because the exposures are a mere fraction of the basic limit, is highly misleading when these breaches have already occurred.

NPPF Policy needs to support practical remedies to protect the public from 'microwave hearing'.

v) PRIOR APPROVAL - LPAS ARE BEING LEFT OPEN TO JUDICIAL REVIEW AS NOT ALL MAST APPLICATIONS ARE BEING PROCESSED CORRECTLY & THIS IS LEAVING THE PUBLIC AT RISK

GPDO guidance states that all new ground masts **do need** prior approval which needs granting or refusing after taking into account in situ material planning considerations, but the majority of case officers seem to misunderstand this and issue decisions as 'Approval not Required'.

Most decisions are not being made decisive and objectors who are attempting to fill gaps in misleading regulation are being denied the chance to protect themselves as their evidence of ICNIRP public exclusion zone breaches are not being taken into account.

Some applications are being treated as prior notifications when in fact they are prior approval applications which need to consider public health related issues arising from proximity as material planning considerations critical to siting assessments.

vi) LPAS ARE VULNERABLE TO JUDICIAL REVIEW AS THE GOVERNMENT HAVE NOT CLARIFIED TO LPAS WHAT THE EECC LEGAL OBLIGATIONS ARE & THESE ARE BEING OBSCURED BY MISLEADING WORDING IN THE NPPF

LPAs are nominated a co-regulator for involuntary exposures to RFR,

'Control of exposures occurs through product safety legislation, health and safety legislation and planning policy. These regulatory areas all consider the international guidelines.'

Gov UKHSA webpage '**Mobile phone base stations: radio waves and health**' - updated 30 July 2024.

LPAs are the EECC National Competent authority and regulator for **small cells** with obligations to consult and risk reconcile. [Link](#)

*'Article 3(3) of the Implementing Regulation states that operators who have deployed SAWAPs (Regulation 2020/1070 small cell systems) of class E2 or E10 (as defined in the European Standards 62232:2017) shall notify the national competent authority within two weeks from the deployment of each such point about its installation and location as well as the requirements they have met in terms of its characteristics and appearance. **We consider that the national competent authority in this respect is the local planning authority. This view is shared by the UK Government and the other Devolved Administrations.'***

The government have nominated Ofcom as the EECC national regulator for spectrum management but Ofcom do not have the remit for health; it is the LPAs who have the obligation to risk reconcile, 'set health safeguards', to act as a competent authority to perform EECC obligations, to decide whether to set a condition on a planning approval/general authorisation re: siting or refuse the siting of a mast on related health grounds (EECC Annex1). Residents are most definitely at risk of avoidable

harm, injury and nuisance, if they are living inside an exclusion zone. The whole purpose of the ICNIRP certificate is to make sure the public do not enter, never mind live within, a public exclusion zone.

As previously explained, Brighton & Hove CC conceded at a cost of £13,000 on the ground they had not assessed the proximity of a school to a proposed 5G mast. In that specific case, when the height of the proposed mast was changed during the application period, a revised ICNIRP certificate was not provided for the reduced height mast. This reveals a confusion and gap in regulation and policy, because even if a new certificate had have been supplied for the reduced height mast, the planners would not have had access to the exclusion zones and would have not been able to see whether the zones had been breached. The concession clearly shows there is a responsibility to make sure that the mast is not dangerously close to children in the playground.

What is not made clear to LPAs is how they assess proximity. Telecoms creating an exclusion zone is one aspect of the risk assessment but LPAs need direction as to how to process the evidence from the New Hampshire Commission about setback distances.

EXAMPLE OF RISK RECONCILIATION PROCEDURE BEING APPLIED

Mendip Planning Board made a decision to refuse a 5G mast in Frome on 16 March 2022
*Quoting from the Minutes 'Councillor Laura Waters then proposed to refuse the application contrary to Officers Recommendation due to concerns on the impact to public health for all ages and lack of backed up evidence of the impact to health. This was seconded by Councillor Lindsay MacDougall. There were 7 votes for the proposal and 6 votes against, therefore the motion to refuse was carried. **RESOLVED 'Refused contrary to Officer Recommendation due to concerns on the impact to public health for all ages and lack of backed up evidence of the impact to health.'***

The Mendip Case officer thought that the EECC obligations could be fulfilled by applying ICNIRP certification and instructed objectors and the Planning Board ahead of the decision that the certificate was sufficient. The Board conducted a weighting of evidence for, and against safety; and, after considering the proximity of children in nearby houses, scientific evidence including that a 500m setback is necessary; and a Dr's testimony that a man with EHS and multiple metal implants would be adversely impacted by the 5G upgrade, the Board concluded that indeed there was NOT enough evidence of safety to proceed.

In effect the planning board followed the procedural standard within the EECC and 1999/519/EC recommendations and demonstrated that sole reliance on ICNIRP **was not sufficient** to fulfil obligations as an EECC 'competent authority'.

(NB – the applicant decided to withdraw the application AFTER the Decision had been recorded in the minutes, so the decision notice did not record the refusal).

6) CHANGES IN POLICY

TO PROTECT THE LPA AND THE PUBLIC, NPPF POLICY NEEDS TO REFLECT THE REQUIREMENT PUBLIC HEALTH NEEDS TO BE MADE IMPERATIVE. ICNIRP GUIDELINES ARE NOT MANDATORY, & KNOWLEDGE OF RISK SUPPORTED BY RECENT SCIENCE IS REQUIRED BEFORE IT CAN BE TAKEN INTO ACCOUNT

Any defence that the EECC does not apply Post-Brexit, or that Ofcom are responsible as the national regulator, or that the current NPPF 121/122 policy is the way the EECC competent obligations are met, can be firmly rebutted.

Planning decisions need to be evidence-based, and fulfil the procedural standard set in the EECC, by-passing evidence of health material planning considerations places LPAs at risk of costs from Judicial Review proceedings.

NPPF policy needs to change to reflect planning law and the EECC obligations. Currently it is thought that the EECC obligations can be fulfilled by applying the ICNIRP 'certificate only' policy but this is not found to be so in practice in Mendip, nor in Cheltenham.

The EECC refers to 1999/519/EC recommendations (paragraph 19) which require recent science and precaution to be applied when decisions are made making public health imperative (EECC recitals 105, 106, 110) and paragraph 19 is clear that the ICNIRP guidelines are not exclusive.

The paragraph 19 refers to Member states in this context, but only LPAs are issuing general authorisations, so these EECC Recitals and paragraphs necessarily apply to the LPA as competent authority on behalf of the 'Member state'. Objectors' rights are rooted in this legislation. The ICNIRP guidelines as adopted by the government only cover against thermal effects, but science is progressing and there are many recent studies about harms from non-thermal effects. Similarly, EHS mechanisms of causation are becoming better understood. Paragraph 19 reads:

*'(19) The Member States **should take note of progress made in scientific knowledge and technology with respect to non-ionising radiation protection, taking into account the aspect of precaution, and should provide for regular scrutiny and review with an assessment being made at regular intervals in the light of guidance issued by competent international organisations, such as the International Commission on Non-Ionising Radiation Protection**'.*

An ex ICNIRP member, Professor Jame Lin, is clear that ICNIRP guidelines are not protective of children and his evidence within the [ICBE-EMF false assumptions paper](#) when provided by objectors, or provided directly to NPPF policy makers, needs to be considered and weighed within a balanced risk reconciliation process to fulfil the EECC regulatory obligations.

7) EECC LEGAL OBLIGATIONS FOR LOCAL AUTHORITIES

The EECC obligations for masts, and small cells **apply Post-Brexit because** these obligations were directly transferred in 2018, they did not need further transposition and directly apply now.

See 10) NOTES iii) page 14 below) for full legal argument.

8) EVIDENCE BEYOND ICNIRP WHICH NEEDS TO BE GUIDED BY POLICY

For a full explanation of what LPAs need to perform as effective EECC competent authorities, please refer to Appendix 2 of the [EECC submission](#), submitted to the government on September 13 2023.

'Appendix 2.. LPAs/LAs..

A2.1 need to be informed about exclusion zones, and provided with exclusion zone diagrams and,

A2.2 exclusion zone diagrams need to illustrate the public exclusion zones extending into adjacent buildings

Further, LPAs/LAs:

A2.3 need to be fully cognisant of risks to pregnant women and the foetus ((especially within an occupational exclusion zone)

A2.4 need to risk assess for microwave hearing

A2.5 need to assess simultaneous exposure from nearby masts, and identify interference 'hotspots'

A2.6 need to be provided with full specifications for 5G infrastructure

A2.7 need to risk assess against health protection claims made by telecommunication applicants/contracting companies

A2.8 need to be informed about the proportion of 'in situ' 5G studies within the body of RFR research

A2.9 need to be informed that there is a section of the population not protected by ICNIRP exposure guidelines, i.e those with metal and medical implants

and,

A2.10 need to acknowledge the existence of people with Electrohypersensitivity (EHS) disability. Changes in NPPF policy needs to accommodate and respect the Appendix 2.

To summarise some of these points:

i) LONG TERM EFFECTS

The ICNIRP Certificate does not consider **long-term biological effects** for lower intensity exposure.

ii) ELECTROHYPERSENSITIVITY /ELECTROSENSITIVITY

The ICNIRP Certificate also does not certify safety having regard to the condition Electrohypersensitivity also known as microwave sickness.

At least two legal rulings in the UK setting a legal precedent; the first in August 2022 in a case against East Sussex County Council where an Upper Tribunal judge found that **electromagnetic hypersensitivity should be considered disabled under the Equality Act 2010** and ruled that the Council **MUST** secure special educational provision through an Education, Health and Care Plan (EHCP); and the second in April 2024 in a case against Somerset County Council where the judge put the Council on notice and ruled that it **MUST** comply with its obligations concerning an **electrosensitive person who was made homeless due to exposure to EMF radiation** or it would be sanctioned.

Many LPAs are aware that some residents already suffer from this condition and that numbers will increase significantly due to cumulative effects. Changes to the NPPF are needed to ensure that LPAs properly take into account evidence of the causes, prevalence and the consequences to those with EHS, and vulnerable residents from RFR exposure when determining mast siting and small cell deployment proposals.

Suggestion: Include and consider this under the “Public Sector Equality Duty”.

iii) CARBON FOOTPRINT

The ICNIRP certificate does not provide guidelines for environmental effects, and 5G generates a significant environmental footprint. It was reported just last month (23rd July 2024) that *‘Ireland’s energy-hungry data centres consumed more electricity last year than all of its urban homes combined, according to official figures. [and] Experts have raised concerns that the sudden surge in power demand driven by data centres could derail climate targets in Ireland and across Europe.’*

Google similarly reported in July that its data centres risked delaying its green ambitions after driving a 48% increase in its overall emissions last year compared with 2019. The NPPF needs to provide guidance on how environmental effects are weighted.

<https://www.ecowatch.com/data-centers-electricity-consumption-ireland.html>

iv) FLORA AND FAUNA

ICNIRP DO NOT SET EXPOSURE GUIDELINE LIMITS FOR FLORA AND FAUNA.

There is growing evidence of harmful effects to both plant and animal life that depend on Earth’s magnetic field for navigation, breeding, food, migration and indeed survival. Recently reported research shows current levels of artificial radiation are already interfering with these biological processes. Please include the research from the International Commission of Biological Effects ICBE-EMF paper in your risk assessment of environmental effects and in relation to NPPF 185 (179) and 186 (180) "development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons ..." There is substantial direct evidence of population-wide insect decline related to the installation of 4G and 5G infrastructure, and 72 out of 83 lab studies show adverse effects of RFR on insects.

<https://ehtrust.org/newly-published-scientific-review-finds-numerous-impacts-to-insects-from-wireless-radiation-and-non-ionizing-emfs/>

v) SETBACK DISTANCES

The New Hampshire Commission requires wireless telecommunication antennas to be placed at least 1,640 feet (500m) from residents, parks, playgrounds, hospitals, nursing homes, day care centres and schools.

The 13-strong expert commission was formed through legislation to include experts in: physics, toxicology, electro-magnetics, epidemiology, biostatistics, occupational health medicine, public health policy, business and law. This recommendation is evidence based, and such evidence is globally applicable. Transcript pertinent to the 500m setback Dr Kent Chamberlain: November 2021.

<https://www.youtube.com/watch?v=DWK74ie7krc>

Suggestion: substantive evidence from the New Hampshire Commission about the necessity for a 500m setback supported by credible science needs to be assessed by Policy Makers and Policy adjusted accordingly.

9) REINSTATEMENT OF PREVIOUS POLICIES

The National Planning Policy Framework (NPPF) replaced the Planning Policy Guidance (PPG) and Planning Policy Statements (PPS) in 2012. Health protections, proper consideration of residential amenity issues, adequate community publicity and meaningful community discussions have been watered down in the NPPF guidelines which has effectively disempowered LPAs and disenfranchised residents.

A wider historical perspective can be gained from reading the PPG to see just how much has been lost. Many decision makers may not be aware of the history.

The 24th September 2024 consultation is an opportunity to reinstate what has been lost.

The PPG document opens with a very bold statement

*PPG 'The Government's policy is to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum. **The Government also has responsibility for protecting public health.***

which reflects the 1999/519/EC recommendations -

1999/519/EC paragraph 4 *'It is imperative to protect members of the general public within the Community against established adverse health effects that may result as a consequence of exposure to electromagnetic fields;'*

*Suggestion: **This overriding objective which accords with the EEC obligations should be reinstated.***

Please find further suggestions for reinstatement indicated in bold within the numbered former policy statements, with additional suggestions in blue:

1. The Government places great emphasis on its well-established national policies for the **protection of the countryside** and urban areas.
2. Whilst local planning authorities are encouraged to respond positively to telecommunications development proposals, they **should take account** of the advice on the protection of urban and **rural areas** in other planning policy guidance notes.

Suggestion: Introduce Environmental Impact Assessments and recent science on environmental effects

3. Government strongly encourages telecommunications operators and local planning authorities to **carry out annual discussions** about rollout plans for each authority's area.

4. Where a **mast is to be installed on or near a school or college it is important that operators discuss the proposed development** with the relevant body of the school or college concerned before submitting an application for planning permission or prior approval to the local planning authority.

Suggestion: Discuss, not just notify

5. In addition to any statutory consultation, **authorities are strongly encouraged to undertake any additional publicity** that they consider necessary to give people likely to be affected by the proposed development an opportunity to make their views known to the authority.

6. Where a mast is to be installed on or near a school or college the local planning authority should consult the relevant body of the school or college concerned **and should take into account any relevant views expressed.**

Suggestion: Clear policies about the setback from schools could be instated after discussions with school boards on the matter. (Discussions to include the New Hampshire Commission report)

7. Local planning authorities and operators should work together to **find the optimum environmental and network solution on a case-by-case basis.**

Suggestion: Include specific guidance on this matter

8. In order to limit visual intrusion, the Government attaches considerable importance to **keeping the numbers of radio and telecommunications masts**, and of the sites for such installations, **to the minimum** consistent with the efficient operation of the network.

9. The sharing of masts and sites is strongly encouraged where that represents the optimum environmental solution in a particular case. **Authorities will need to consider the cumulative impact upon the environment of additional antennas sharing a mast or masts sharing a site.**

Suggestion: introduce specific clear impact assessments and policies to address the cumulative impact and how the balance of allowing for competition whilst keeping masts to a minimum may be achieved.

10. Each system, whether operated under the "Telecommunications Code" or otherwise, has **different antenna types**, siting needs and other characteristics, which planning authorities need to take into account in carrying out their planning and development control responsibilities.

Suggestion: Full transparency as previously outlined in 10) NOTES i) below.

11. Local planning authorities are advised to consider, on a case-by-case basis, whether the statutory consultation arrangements for applications for planning permission and prior approval will adequately provide for interested parties to be notified of a particular development. Pre-application discussions with the developer should have helped the authority to identify who those interested parties might be. **Authorities are strongly encouraged to undertake any additional publicity that they consider necessary to give people likely to be affected by the proposed development an**

opportunity to make their views known to the authority. Local authorities should bear in mind that, on occasion, this may include people outside of the authority area.

upon the environment of additional antennas sharing a mast or masts sharing a site.

Suggestion: Clear policies about the additional publicity requirements should be included, as currently it is a common complaint that only a few residents are notified of planning applications for masts.

12. The public has become increasingly aware of the presence of EMFs in the environment.

This growing awareness has been accompanied by concern that exposure to EMFs may have possible adverse effects upon health. **It is clearly important that the public be protected where an adverse health effect exists.**

Suggestion: Include within policy that microwave hearing can lead to an adverse health effect.

Please see these links for source of statements 1-12 PPG

<https://planningjungle.com/wp-content/uploads/Planning-Policy-Guidance-8-Telecommunications-August-2001.pdf>

10) SUMMARY

Regulation of exposures via the NPPF policy 121/122 is failing to protect the public from avoidable harm injury and nuisance. The ICNIRP guidelines are not being effectively applied by Case Officers, the auditory exposure limits are not included in the regulatory procedures, and breaches of this limit (4.35 V/m, compared with the Basic limit 61 V/m) have been recorded in public spaces.

Additionally, the 1999/519/EC recommendation does not make the ICNIRP guidelines exclusive and mandatory.

It is paramount that the NPPF is changed to serve the Local Authorities and the public, such that the procedural standard within the EECC is upheld and reflected in the NPPF.

The regulatory obligation directly falls on LPAs, not central government, and the NPPF must serve to guide LPAs clearly on the EECC obligations which directly apply and continue to do so Post-Brexit.

The current policy misleads local authorities to believe that they must not consider health and is resulting in some instances to people living inside exclusion zones. It is essential that LPAs are guided clearly and have access to a full specification of the equipment (see 10) NOTES i) page 14 below).

11) NOTES

i) TRANSPARENCY – FULL SPECIFICATIONS OF EQUIPMENT

Full transparency about the product spec including power output needs to be provided as evidence. A piece of paper self-certifying compliance is insufficient to prevent harm injury and nuisance.

EECC submission Appendix 2.6

'the United Kingdom is a member of the World Health Organization's International Electromagnetic Fields (EMF) Project

'James Lech (WHO's International EMF Project) states that LPAs/LAs being in receipt of a full dataset including the, frequency, transmitting power, network communications technology including 'modulation scheme and bit rate' supports 'the balancing of advancing technologies with maintaining a balance on exposure to radiation to the public and environment'.

A2.6.3 The dataset being:

- 1.1. Location XY coordinates.
- 1.2. Digital Terrain Model (DTM).
- 1.3. Building layer – shapes with heights.
- 1.4. Vegetation layer – shapes with heights.
- 1.5. Land use classification.
- 1.6. Height of the antenna above ground.
- 1.7. Antenna direction – azimuth and tilt.
- 1.8. Antenna model/radiation pattern.
- 1.9. Transmitting power.
- 1.10. Frequency/frequency band.
- 1.11. Bandwidth.
- 1.12. Network/communication technology.
- 1.13. Signal analysis extent or location of interest.

ii) AUDITORY/SENSORY LIMIT TO PROTECT AGAINST MICROWAVE HEARING

See Appendix 2.4 of EECC submission for full details for calculations of limit 4.34 V/m.
ICNIRP basic limit is 61 V/m

Sensory limit

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:199:0059:0070:en:PDF>
Note 8 on ANNEX 2 TABLE 1

'8. For pulses of duration to the equivalent frequency to apply in the basic restrictions should be calculated as $f = 1/(2t p)$. Additionally, for pulsed exposures, in the frequency range 0,3 to 10 GHz and for localised exposure of the head, in order to limit and avoid auditory effects caused by thermoelastic expansion, an additional basic restriction is recommended. This is that the SA should not exceed $2mJ kg^{-1}$ averaged over 10 g of tissue.'

iii) LEGAL PRESENTATION RE EECC OBLIGATIONS

BACKGROUND

NPPF Policy 121/122 '...should ... not set health safeguards other than ICNIRP' is being interpreted and processed by LPAs as being, "health concerns cannot be taken into account," however it is essential that 5G mast applications are processed with full consideration **of all material planning considerations**.

Planning decisions always revolve around the use of land and buildings. The compatible use of which must be carefully weighed up against the incompatible and unacceptable use in an evidence-based decision.

A valid ICNIRP Certificate is potential compatible use of land or buildings and must be balanced with evidence to address incompatible and unacceptable use material planning considerations highlighted by objectors.

By disregarding evidence of potential harm, injury and nuisance LPAs would be short circuiting the process and violating objector rights.

APPLICABILITY OF THE EUROPEAN ELECTRONICS COMMUNICATIONS CODE (EECC) AND LPAS AS COMPETENT AUTHORITIES

The EECC is an international agreement which addresses the balance of rights between Telecoms applicants and citizens when masts are approved. The second paragraph of the NPPF makes it clear that international obligations must be adhered to:

"Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material

*consideration in planning decisions. **Planning policies and decisions must also reflect relevant international obligations and statutory requirements***".

The status of LPAs as being Competent Authorities under EECC law goes back to the 2009/140/EC Directive and Matt Warman himself confirmed that local authorities were already considered competent authorities under the 2014/61/EC Directive. As competent authorities, LPAs are obliged to protect public health, particularly under the 2018/1972/EC Directive and Article 45)2h. Recital 110 of the 2018 Directive makes public health imperative and the need to ensure the public are not exposed to harmful levels of radiation, whilst Recital 106 states the need for a reconciliation of the public health and environmental considerations taking into account the precautionary approach set out in the Council Recommendations 1999/519/EC. Recitals 106 and 110 and Article 45.2h can be found here:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L1972>

Recitals are the prerequisite arrangements that have to be brought into effect to ensure that the Articles of the EECC (ie: the legal obligations placed on LPAs) that meet the rights of Telecoms companies to operate shared masts and the rights of the public to be protected from consequent RFR exposure are met lawfully.

It is important to note that the 1999/519/EC Recommendations are procedural standards which must be adhered to and they are written on the back of every ICNIRP Certificate:

Recommendation 19 is particularly important. It reads,

'the Member States (which the UK was in 2018 when the EECC came into effect) should take note of progress made in scientific knowledge and technology with respect to non-ionising radiation protection, taking into account the aspect of precaution, and should provide for regular scrutiny and review with an assessment being made at regular intervals in the light of guidance issued by competent international organisations, such as the ICNIRP'.

This procedural standard (ie: it has imbedded within legally binding decision making systems) includes taking into account recent science (as above) which is critically important as 5G technology has not been proven safe; more and more recent science is showing harm caused by this technology including six peer reviewed studies from 2023 showing harm to people living in close proximity to 5G base stations.

Although the procedural standard was agreed in 1999, it was future proofed.

ICNIRP guidelines are not guaranteed any position of permanency. Its relevance has to be continually questioned as to whether reliance upon it within legally binding decision making systems is sufficiently precautionary.

LPAs are independently responsible for making that assessment on every mast application to which the procedural standard applies.

As part of the LPA powers as EECC competent authorities, they are able to impose condition B3 as below. This is further proof of their status as regulators of RFR exposure when they grant or refuse 'general authorisations' in response to planning applications for masts and small cell systems.

'EECC - ANNEX I'

'LIST OF CONDITIONS WHICH MAY BE ATTACHED TO GENERAL AUTHORISATIONS

B. Specific conditions which may be attached to a general authorisation for the provision of electronic communications networks

1. Interconnection of networks in accordance with this Directive.
2. 'Must carry' obligations in accordance with this Directive.

3. Measures for the protection of public health against electromagnetic fields caused by electronic communications networks in accordance with Union law, taking utmost account of Recommendation 1999/519/EC.

plus further conditions not related to LPA General Authorisations.'