##  **FIBRE WAYLEAVE FRAMEWORK TOOLKIT & QUESTIONNAIRE**

1. **Toolkit**

**Introduction**

Lewisham’s vision is to become a truly digital council and borough. With ambitious plans to deliver digital transformation, we will maximise opportunities for digital design, data and technology to enhance growth, quality of life, sustainability and individual opportunity in Lewisham.

Lewisham published its first creative and digital industries in 2017 outlining how the council and its partners plan associated industries within the borough. The 2022 digital strategy, currently being formed, addresses how the council will deliver key digital services and infrastructure to residents to thrive and live happy, healthy lives. The overarching ambitions of the strategy are the development of a modern, sustainable borough that harnesses the latest in digital technologies and infrastructure.

Improving Lewisham’s digital infrastructure through enhanced mobile and broadband connectivity to residents, communities and businesses is one of our highest priorities. Lewisham’s challenge is to develop a digital infrastructure that matches our ambition and helps tackle the digital inequalities the borough faces. As the 10th most deprived borough in London (and 48th in England), Lewisham residents face multiple challenges associated with digital inequalities including inadequate bandwidth, limited digital skills and both data and device poverty. Improving our digital infrastructure is a key component in tackling the digital divide in Lewisham. We aim to improve connectivity speeds and capacity across the borough by creating the conditions for, and enabling the provision of technically capable and future proof digital connectivity infrastructure. Delivering an improved digital infrastructure will empower our residents, businesses, community and voluntary sector and public services, and contribute to Lewisham’s economic growth. Lewisham Council want to improve the fibre broadband provision for its social housing residents, resulting in improved connectivity speeds and a greater variety of provider contracts.

**Digital Infrastructure Guidance**

Guidance published by the Department for Digital, Culture, Media & Sport ([DCMS](https://www.gov.uk/government/organisations/department-for-digital-culture-media-sport)) paves the way for “a clear and transparent process for industry and government”. Lewisham Council has developed this Digital Infrastructure Toolkit on the basis of the [DCMS guidance](https://www.gov.uk/government/publications/digital-infrastructure-toolkit) and has adopted a non-exclusive, open access approach to broadband suppliers

This Toolkit and Expression of Interest outlines:

* + Guidance to suppliers wanting to deliver improved broadband provision for social housing residents
	+ Guidance on setting up an agreement between the Lewisham Council and the supplier;
	+ Standard Financial Terms
	+ Advice on the processes for suppliers to follow when considering siting digital communications infrastructure on Lewisham Council assets (buildings, property and associated communications infrastructure owned by Lewisham Council).

This Toolkit and EOI sets out the Council’s guidance as of the 13th of July 2022. Suppliers must satisfy themselves as to the accuracy of any information contained in it and otherwise provided by the Council. The Council may amend its guidance and the process to be followed at any time.

**Electronic Communications Code**

This toolkit follows the electronic communications code as set out in Schedule 3A of the Communications Act 2003. The regulations support the Government’s commitment to establish reliable mobile connectivity across the country, as well as supporting faster and cheaper deployment of the infrastructure. Details of the Electronic Communications Code can be found [here](https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/electronic-comm-code).

**Process**

Lewisham Council will consider proposals for the installation of broadband from suppliers. Suppliers should submit the completed Expression of Interest (Annex 1) to:

Joseph Chambers

Digital Public Lead

London Borough of Lewisham

Email: joseph.chambers@Lewisham.gov.uk

**Installation Information**

The supplier must provide the Council with information requested in the questionnaire below. Please provide as much detail as possible to enable a comprehensive review of the EOI.

The information listed will be shared with the highways department, public realm, Lewisham Homes and Lewisham Council’s IT and legal teams, who will review it and raise any potential concerns. If required, a workshop will be arranged with all the stakeholders to address potential issues or gain a better understanding of the proposed solution.

**Planning Regulations**

Proposals for fibre broadband sites can be classed as ‘permitted development’ under the ‘The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016’. On this basis, an application for 28 day ‘prior notification’ to the Council’s Planning Department is required under the GPDO.

Suppliers should make use of the Lewisham Planning pre-application meeting service to confirm this Lewisham Planning Department can be contacted through the Lewisham Planning Portal or via the Planning Department inbox (planning@lewisham.gov.uk)

**Legal Agreement**

Our standardised legal agreement is based on the DCMS standard agreement. An agreement to host infrastructure in Lewisham must be in writing to:

* Record the agreed terms between the Local Authority, the Contractor and the Supplier.
* Ensure the interests of all parties are protected for the duration of the Agreement
* Takes into consideration other suppliers that will seek to host infrastructure in the borough
* Help avoid disputes

Lewisham reserves the right to reject any application if the Supplier fails to prove that its solution is not preventing another Supplier from later hosting infrastructure in the same asset (buildings, property and associated communications infrastructure owned by Lewisham Council).

A subsequent Supplier deploying a solution on a deployed asset (buildings, property and associated communications infrastructure owned by Lewisham Council) must prove that the solution will not interfere with the previously deployed solution.

**Financial Terms**

The Electronic Communications Code provides for two forms of remuneration: Consideration and Compensation.

1. Consideration:

Consideration is dealt with in paragraph 24 of the Code. Where a Tribunal is required to determine the consideration payable by an supplier, their calculation must be based on: “an amount or amounts representing the market value of the agreement ... to confer or be bound by the code right”, with “market value” for these purposes being assessed by reference to specific assumptions.

1. Compensation:

 Compensation is dealt with in paragraph 25 of the Code and is intended to allow landowners to recover loss or damage that has been sustained or will be sustained as a result of an agreement to host infrastructure on land or buildings. Typical matters [Heads of Claim] which could be taken into account as compensation might include:

* 1. Surveyors Fees;
	2. Legal Expenses;
	3. Access - e.g. Creation of management information system to handle enquiries for access;
	4. Disturbance - during the build and subsequently (maintenance visits); and
	5. Injurious Affection - reduction in land value as a consequence of granting the rights.
	6. Joint site surveys involving the Highways department

**Business Rates**

Departments, advisers, and suppliers should note that installation of infrastructure will create a separate assessment for business rates payable on the property/associated infrastructure. Additional business rates consequently payable will be the responsibility of the supplier.

**Lewisham Rates**

In order to maintain openness and transparency Lewisham has adopted a non-exclusive, open access approach for broadband suppliers seeking to deploy in Lewisham. Lewisham Council has set the following standard financial terms for the fibre broadband deployment in the borough:

* The Supplier will cover all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses related to installation, maintenance, upgrade and removal of fibre broadband equipment.
* In addition to the above, a master wayleave fee of £10,000 will be payable to the council for each agreement to cover the following activities:
	+ Initial discussions and legal agreement to proceed.
	+ Installation support
	+ Performance monitoring
* The Supplier will pay the cost per premises of £10 for each unit connected.
	+ This will cover project management costs (using a supplier of Lewisham Council’s choice). Any amendments to existing contracts will not incur a fee.
* The supplier will cover all costs towards LBL employing external quality assurance (fire risk certification, auditing of work)
1. **Questionnaire**

**Please complete and provide answers to all questions within the following questionnaire.**

You may utilise your own ready documentation / formatting for the submission of this information if pre-existing information is readily available, provided it can be submitted in accordance with the questions set out and fully addresses the questions raised. Otherwise, please feel free to insert text / images / diagrammatic information into the indicative boxes provided within the questionnaire itself.

## **SECTION 1: PROVIDER BACKGROUND INFORMATION AND EVIDENCE**

The following questions are designed to elicit the background information that will be necessary to complete the wayleave framework agreement, or will be common to all future wayleaves that will be agreed, or is background evidence that a provider is a fit and proper partner with whom to engage. Such information and evidence is designed to ensure that the council is entering into partnership with a party with the appropriate registration, licences and insurances with which to undertake the potential future works programmes that are proposed in a manner that will ensure full compliance with all relevant legislative frameworks and standards.

Broadband provider name:

Company registered address:

Company registration number:

Company operational address

*(if different to registered address):*

Lead project contact name:

Lead project contact telephone:

Lead project contact email:

Details of regulatory licence ref.

and any insurance applicable

to delivering the programme.

*Please list any references and*

*links here and/or attach any key*

*documents to the end of section 1.*

## **SECTION 2: DEMONSTRATION OF COMMITMENT TO THE PROJECT PRINCIPLES**

This section seeks to test alignment between the project principles set by the elected members of our boroughs and the proposed approach to the delivery of fibre broadband services to ensure we have a shared understanding of goals and the direction that working in partnership will provide.

**Question 1: Proposed programme for broadband investments**

Please provide an overview of the intended schedule across various sites or areas throughout the borough, including confirmation of what percentage of the Social Housing portfolio will ultimately be covered. The programme plan should set out delivery expectations through to 2027; in recognition of Government ambitions, showing detail on a quarterly basis for at least the first year.

If a schedule is not available at the moment, please provide a potential date as to when you think this could be available and/or a potential number of properties that can be serviced.

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**Question 2: Delivery of fibre broadband where investment returns may be more marginal**

Please set out how you will approach area-based delivery in a way that will avoid individual blocks and locations becoming excluded from the receipt of fibre broadband services. What role can and will your organisation play in maximising the number of residents that will be able to benefit from fibre broadband investments. What do you require from our partnership to support this?

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**Question 3: Delivery of fibre broadband to support local businesses**

Please set out how with your presence across the borough, or within various areas, you will seek to leverage further engagement with local businesses to help them benefit from and unlock the potential of fibre broadband investments. What do you require from our partnership to support this?

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**Question 4: Delivery confidence and delay/risk mitigation**

Please provide an understanding of your confidence in the delivery of your proposed programme, for example you might want to indicate the extent to which the signing of a Wayleave Framework Agreement will unlock further investment opportunities and commitments?

We welcome insight from similar projects around the likely risks or challenges that may cause delays, how these could be managed or avoided, and clarification of what you may require from our partnership to help to minimise delays?

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**Question 5: Resident Consultation**

Please outline your approach to resident engagement; including a general communication plan.

Please also set out the process for handling complaints, as well as any other mechanisms for public feedback intended to be utilised. We also welcome details on when and how Resident Associations and council representatives will be engaged to both discuss issues and receive updates on progress.

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**Question 6: Quality of Communication**

Please provide a timeline for the communications process associated with your broadband rollout programme and the delivery of works. This should include examples of the various messages (templates) that residents will receive before, during and after the works. If applicable, we also welcome details of templates for when residents will be signing up to new services (marketing and promotional material). Please confirm the communications channel/s that will apply in each case.

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**Question 7: Approval and management of works within the public highway and public realm**

Please confirm if you intend to continue to deliver works within the public highways and public realm through Code Rights and how you will engage with both TfL and the boroughs highways team, and what you require from them. In the spirit of partnership working we welcome clarification of measures that will be considered to minimise disturbance to residents and businesses from such works.

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**Question 8: Management of works and accountability**

Please indicate if there are any proposals to subcontract works, and if so, how these will not result in reduced ownership of such works and activities; this is especially important where issues such as damage or disturbance may arise. We welcome clarification of a lead project manager for you as a provider, with overall responsibility for the appropriate delivery of the programme.

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The borough recognises that this investment will unlock wider social, economic and environmental benefits. To gain a better understanding of what these benefits are and how the work can link into existing council programmes, you are asked to complete the following sections, as applicable***.***

To assist, a calculator tool has been developed to provide a standardised way of measuring and quoting social value benefits. Further benefits can also be referenced, but please include a reference, some background working or other explanatory information as appropriate to aid understanding.

For confidence in the delivery of potential benefits, it will be useful if an indication can be given as to how they will be monitored and reported on. Intended auditing of expected impacts, especially if delivery of the social value benefits will be through third parties, would also be useful to clarify.

**Question 9: Social Value – digital connectivity improvements to address inclusion**

If this applies to your programme, please provide an overview of any expected social value benefits in relation to how improvements will support improved affordability or availability of connectivity to communities as well as residents.

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**Question 10: Social Value – digital skills and employment opportunities to support inclusion**

If this applies to your programme, please confirm details of how digital inclusion will be enhanced through training and skills development, apprenticeships and formal employment-access schemes. We are especially interested in how such schemes will support Basic Digital Skills and meet local needs, including for people classified as ‘NEETs’ (Not in Education, Employment or Training Schemes).

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**Question 11: Economic Value – wider benefits for the local economy**

If this applies to your programme, please provide an overview about how you are or will be using local employees and suppliers to support fibre broadband rollout. In addition, please outline how will the proposed delivery programme, enabled through this wayleave framework agreement, secure additionality both within specific Estates as well as across the wider Borough? Where could this be further extended with assistance through the partnership?

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**Question 12: Social Value – environmentally-minded design and delivery of schemes**

If this applies to your programme, please provide an overview about any measures or steps you are taking to minimise and reduce the environmental impact of your proposed investment programme. Please indicate all measures that will be taken to minimise environmental harm and damage, at both a neighbourhood and wider scale. Please also indicate what measures or steps your organisation will take to offset, compensate, restore or improve the environment through the investment programme.

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**Question 13:**

As noted earlier in this document (page 4 – ‘Lewisham Rates’), Lewisham Council require various costs to covered by fibre providers. Please read the aforementioned ‘Lewisham Rates’ section and provide confirmation that you will be covering these

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**SECTION 3: Technical PROGRAMME INFORMATION THAT WILL BE COMMON TO ALL FUTURE WAYLEAVES**

The following questions provide an opportunity to submit information just once where it will be common or apply to all future wayleaves. It will be possible to update this information through a subsequent contract variation document to replace or supplement the relevant section (or through submission of the relevant information with each individual wayleave package of information).

Some questions may request examples of how information will be provided or presented for individual wayleave submissions. In such cases only the format and indicative depth/detail of information that is expected will have contractual meaning as a part of this wayleave framework agreement; examples from locations outside of this local authority area may therefore be provided.

**Question 14: Installation programme and processes**

Please provide details of your design and installation programme and processes, including a description of the end to end process, a checklist confirming how your programme will comply with the delivery guidelines set out within the framework agreement, and any other ‘delivery’ information that will be common between the individual wayleaves.

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**Question 15: Product overview**

Please provide details of the product or products that are intended to be installed as a result of individual wayleaves

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**Question 16: Fire Safety**

Please set out the fire protection controls and methods that will be used to ensure proper fire management principles are adhered to at all times. Please indicate how, where and when reviews of block fire safety plans will be considered and undertaken.

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**Question 17: Health and Safety Matters**

Please provide details of the health and safety policies and measures that you will operate in relation to the installation and future operation of the proposed equipment and services. Please provide details in relation to your approach to asbestos surveys and associated requirements, together with other identified matters detailed in the delivery guidance. Please confirm adherence to health and safety commitments will apply to all staff and appointed subcontractors; and will apply at all times.

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**Question 18: Monitoring and evaluation**

The Council would like providers to use their chosen project management resource. We will be looking for all providers to work with them to deliver regular, informative updates highlighting any key issues and risks as well as connections achieved. Can you please explain your experience of working with a project management team, who will be working in the best interests of the council but fully focused on the providers, to deliver the fibre programme.

If you have example templates for reporting please provide them.

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**Question 19: Example wayleave submission package**

Please provide a complete example wayleave ’method statement’ package to demonstrate the level of detail and format of the relevant information that will be provided in relation to each future area/block submission. (You may use an example from another area if appropriate).

**Signature**

Please sign to confirm that the information contained here is complete and accurate.

1. Signature of Supplier

2. Date

Please send the completed form to: joseph.chambers@Lewisham.gov.uk