

NOTE: This is a collective response from the Minister for Health and Social Services, Minister for Economic Development and the Minister for Planning and Environment

**HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY SUB-PANEL
REVIEW INTO THE PERCEIVED HEALTH EFFECTS OF MOBILE PHONE
MASTS**

**Health and Social Services Health Protection Department Report
recommendations**

The Sub-Panel considers that the following actions recommended within the Health and Social Services Health Protection Department Report together with its own additional recommendations are required to ensure that an adequate precautionary approach is adopted –

- 1. All base stations are to be subject to the scrutiny of the planning applications process to ensure compliance with internationally agreed standards.***

All telecommunication equipment requires planning permission with the exception of antenna placed inside buildings and equipment erected by or on behalf of The States of Jersey.

- 2. There should be improved consultation by the network operators with the community prior to the selection of a site for a base station.***

This recommendation is essentially directed to the operators, however community consultation is already part of the process within the planning system. The planning process allows the public to voice their concerns on all matters of concern and these concerns are taken into account as part of the process.

Further to this, it would be extremely difficult to determine who the community is for the operators to consult with prior to the submission of a planning application. Consultation during the planning process involves the whole Island as a community. Indeed, many of the letters of representation to telecommunication applications have been from people not located in the vicinity of a potential site. Therefore the consultation process within the planning system is more inclusive and comprehensive than consultation undertaken by the operators.

- 3. Emissions from base stations must as a minimum meet the ICNIRP guidelines for public exposure, as expressed in the EU Council Recommendation. However the States should seek to ensure that Network operators voluntarily agree to comply with levels lower than international guidelines (namely ICNIRP and NRPB).***

All telecommunication applications are required to be accompanied with ICNIRP certificates estimating the emissions for the proposed site. These are all significantly lower than the ICNIRP guideline for public exposure. A condition is imposed on the permits requiring that the post-commissioning test demonstrates that the actual emissions are in accordance with the estimated emissions. This condition ensures that not only are the actual emissions below the ICNIRP guideline but they are in accordance with the lower agreed estimated emission level.

- 4. Measurement of the actual levels of radiation from base stations must be undertaken following commissioning to show compliance and be a condition of the planning permit.***

All telecommunication equipment approved is conditioned with the following:

“The development hereby permitted is temporary and shall be removed on or before 3 months following substantial completion of the development and the land restored to its former condition, unless a post commissioning test indicating actual electromagnetic levels is completed, submitted to and approved in writing by the Minister for Planning and Environment.”

- 5. Mobile Phone network operators co-operate to deliver with the States of Jersey a database of information available to the public on radio base stations.***

The JCRA, following Direction under Part 3, Article 8(1) of the Telecommunications (Jersey) Law 2002 from the Minister for Economic Development, has developed in consultation with the operators a web site which will supply relevant and up-to-date information on the location of masts, the results of independent testing as well as information on the current international standards in respect of safe levels of emissions.

- 6. There is cross industry agreement on the sharing of sites and masts for radio base stations wherever possible.***

Policy NR12 ‘Telecommunications’ of the Island Plan 2002 requires that all opportunities for sharing facilities are explored. This includes mast sharing and site sharing, i.e. co-locating installations together. The Island Plan therefore encourages the co-location of telecommunication installations and operators are required when submitting any new application to demonstrate that they have explored all site sharing opportunities.

The Sub-Panel considers that on the basis of the evidence it has received and scrutinized that the following additional actions recommended are necessary to ensure that an adequate precautionary approach is adopted –

1. The Sub-Panel recommends that the Minister for Health and Social Services be invited to undertake the following and report back to the States before the end of 2007 –

1. The further evaluation and scrutiny, as to whether or not the acceptable levels of EMF emissions recommended by ICNIRP (1999) remain appropriate and relevant, given the lapse of time since their introduction and the age of the database used for their development (pre 1998). *Especially in light of the reduced levels of EMF emission standards, adopted in some other jurisdictions. The reduction in those other jurisdictions appear to be on the basis of more recently published research (post-1999) into cell integrity and the occurrence of certain illnesses when individuals are subjected to EMF's.*

The newly appointed Minister for Health and Social Services announced on the 27 September 2007 that he had called for a further review of the risks of mobile phone masts as one of his first priorities. He had taken this decision in the light of his duty to provide the public with the most up-to-date advice on the subject. The report focussed on the work that had been completed since the previous Health and Social Services Report in April 2006.

ICNIRP is currently reviewing its guidelines on limiting exposure to static magnetic fields and to time varying electric fields of frequencies up to 100kHz. The Health and Social Services will continue to monitor ICNIRP and will release a report on that review when it has been released.

1.1 That the evidence from new research suggesting that biological functions, including functions of the brain, may be affected, by EMF levels must be evaluated by health professionals locally and the findings reported back to the States before the end of 2007. *The Sub-Panel recognises that there is, as yet, no conclusive evidence that these biological effects constitute a health hazard, but at present, only limited data are available.*

The report from the Health Protection Service in November 2007 considered new research and the reports from the UK MTHR Expert Group, as well as those sent to the Department from the Jersey Mobile Mast Concern Group. The MTHR report considered the biological function issue and brain function. The Health Protection report concluded that “further evidence to date does not give any support for a change in the view initially put forward in the Health Protection report of April 2006”.

1.2 That a report evaluating the following research be presented to the States prior to the end of 2007 –

- **University of Essex peer reviewed research to be available mid-year 2007;**
- **Human cell EMF's research by Drs. G. Carlo and G. Oberfeld.**

Both of these pieces of work were reviewed as part of the MTHR Expert Group report of September 2007. The Health Protection report of November 2007 provided a review of the MTHR document as part of its remit.

1.3 To investigate and report on the reduction in approved EMF emission levels in other Jurisdictions and to consider the basis upon which the decision to reduce levels was made.

There are no national Governments world-wide that have confirmed an adoption of any restrictions other than the international guidelines of ICNIRP. There may be smaller local areas that have elected to adopt different standards, but these have not been supported by the Country's national Government.

The States of Jersey is a small jurisdiction with limited capacity and resources in this field. To undertake a review of this magnitude would be a significant burden on those very limited resources. It is important that the States of Jersey work to and ensure compliance with recognised international standards. As detailed earlier applications for new masts already have emissions levels significantly better than international standards.

2. The Sub-Panel recommends that the Ministers for Health and Social Services, Economic Development and Planning and Environment be invited to agree to the following –

2.1 In addition to the first recommendation from the April 2006 Health Protection Report, to ensure that all base stations are subject to a planning application. *(It is noted that the Minister for Planning and Environment has already complied with that recommendation).*

All telecommunication equipment requires planning permission with the exception of antenna placed inside buildings and equipment erected by or on behalf of The States of Jersey.

2.2 That the necessary measures should be identified to introduce the establishment of agreed emission levels with the operators on individual mobile masts of any description on a case by case basis. Operators should be required to notify the Planning Department of the minimum signal strength (within existing guidelines) capable of ensuring effective transmission from each new site and once agreed this should become a condition of each individual Planning application. It is further recommended that steps be taken to review the output of pre-existing installations with a view to reducing emission levels wherever possible. *(The Sub-Panel considers that the more stringent precautionary approach is justified on the basis of the growing level of expert opinion expressing concern over the effect of EMFs.)*

Agreed emission levels with operators have already been in place since February 2006. Every telecommunication planning application after February 2006 has been accompanied by an ICNIRP certificate which establishes an estimated emission level. This level has been conditioned by the permit to ensure that the actual level is in accordance with the estimated level. In this way, it has been ensured that every base station site that received planning permission since February 2006 is significantly below the ICNIRP guidelines. The current best practice in the UK is for operators to simply confirm that the emission levels are within international guidelines. Our approach has been to establish agreed emission levels at every individual site.

The majority of base station sites have now been granted full permission as they have proven that one year later the actual emissions are in accordance with the agreed emission levels conditioned on the permits. In terms of reviewing pre-existing installations, the Minister for Economic Development issued a Direction to the JCRA on 25 October 2007 to ensure that independent random testing of mobile phone masts and base stations is undertaken to monitor emissions.

3. The Sub-Panel recommends that the Minister for Economic Development be requested to provide the JCRA with guidance on social grounds to ensure the following –

3.1 The Sub-Panel is of the opinion that the JCRA should be given guidance suggesting that it ensures that States-approved consultation time scales are adhered to during a consultation process. The terms of consultation on issues which could potentially impact on public health should be clearly outlined and agreed and follow best practice on consultation; and,

The issue of consultation is clearly defined within Article 11 of the Telecommunications (Jersey) Law 2002.

The general effect of this Article is that consultations take longer in actual practice than the six week/ three month provisions adopted by the States. To that end, the Minister is working with the Authority and its licensees to seek to reduce and simplify consultation procedures under the Law, but will seek to ensure that considerations specifically regarding matters of public health are kept, at a minimum, to that utilised by the States.

3.2 That guidance be issued to request the requirement to ensure that Network operators either voluntarily agree or comply through the introduction of an additional licensing clause relating to agreeing EMF emission levels on a site by site basis lower than international guidelines.

Given that the EMF levels are restricted and controlled through the planning process, it is considered unnecessary to also include this requirement through an additional licensing clause.

3.3 That guidance should be issued requiring emission monitoring compliance to be undertaken by an independent body, to be appointed by the JCRA and funded by the telephone operators. That the guidance should recommend that the appointee would be required to undertake periodic (quarterly) random emission testing of radiation from base stations without prior notice to the operator. The JCRA would monitor and ensure operators compliance with their issued licences and that the reports from those tests be made publicly available,

The Minister for Economic Development issued a Direction to the JCRA on 25 October 2007 to ensure that independent random testing of mobile phone masts and base stations is undertaken to monitor emissions.

The Direction stated that tests must take place annually for the first two years and thereafter every second year. The tests will be managed by the JCRA and paid for by the licensees.

A tender for the appointment of an independent company to carry out this work has recently been approved by the JCRA and the deadline for submissions is 25th July 2008.

3.4 That the guidance would suggest that operators should as part of their licence be required to fund the development and management of a website using a mapping system which shows the island topography and location of all macro, micro and pico cells, lattice masts and tetra installations.

The Direction from the Minister for Economic Development to the JCRA also stated that the licensees should pay for the development and operation of a publicly accessible website that will as a minimum deliver:

- information on the location of mobile masts;
- independently verified information on individual masts in accordance with the testing regime adopted by the Authority;
- information regarding the current international standards in respect of safe levels of emissions;
- the website should be regularly updated in accordance with available information in order to best deliver these objectives.

The JCRA in consultation with the operators have completed the development of the website with all the above requirements. The website is targeted to be operational on their website by 25th July 2008.

3.4.1 That the website should identify overlapping (increased emission or cumulative emission areas) and show the acceptable EMF emission reading for the individual cell stations together with the EMF emission level from the independently taken readings.

Should the independent testing show significant increases above the agreed emission levels, these anomalies will be investigated and the results posted on the website.

3.4.2 The website should also provide the latest information on mobile technology. Any changes to or additions to the cells should be posted on the website.

The website will include a page on information and links to external websites. The Health and Social Services Department will continue to

provide the JCRA with any new information from their research to be included on the website.

3.4.3 That the guidance should recommend that the JCRA requires that operators should provide at no cost emission testing to individuals at their domicile if a complaint relating to the level of EMF emissions has been made. *(An agreed and reasonable process for individuals should be developed in this regard. Equipment used by the operator for this person should be calibrated annually by the external body retained for independent testing of EMF emissions.)*

The Direction from the Minister for Economic Development to the JCRA also stated that members of the public should be able to make a complaint regarding the level of emissions of masts near their homes, but that the actual testing regime shall be determined by the JCRA.

The JCRA have included a page on their website to enable members of the public to make a complaint regarding the level of emissions of masts near their home.

3.4.4 That the Minister for Economic Development liaise with the JCRA to develop enabling legislation without the requirement for complaint from an operator, to require mast sharing and impose a licence requirement that the mobile telephony infrastructure be operated through a fibre optic spine wherever possible. The erection of multiple mast clusters should also be discouraged.

The question of mast-sharing remains one that will, in the short-term at least, be decided by the Planning Minister in the first instance. The earliest that any legislation could be brought forward to amend the current Telecommunications (Jersey) Law (within the current legislation programme) is 2009 and by that time the roll-out of mobile masts will be largely complete. From that perspective, legislation may not produce a desired solution. Discussions between Economic Development and Planning will continue in order to ensure as much mast sharing as is practicable. The question of whether operators should be forced to operate through a fibre-optic spine needs further consultation. Clearly such a process would come at a cost and may provide one operator with a competitive advantage in the short-term. For this reason further discussion with the JCRA and operators should be undertaken.

3.4.5 That guidance should be issued to recommend that the JCRA take the necessary action to set a commercially acceptable rate at which all operators can access the Jersey Telecommunications existing fibre optic system in order to reduce the potential social and perceived environmental impact of the proliferation of masts and increased emissions.

The JCRA already have sufficient powers under the Competition (Jersey) Law 2005 and the Telecommunications (Jersey) Law 2002 to require Jersey Telecom to set specified rates if, in the belief of the Authority, the company is abusing its position. The Minister believes that it is for the JCRA to consider whether such a move is necessary and to prepare a market-impact analysis if it deemed necessary.

4. The Sub-Panel recommends that the Minister for Treasury and Resources be requested to review the following issues on the basis of evidence received –

4.1 The possible impact on property values as a result of mobile telephone masts being located next to private properties and suggested depreciation on those values.

The impact that a mobile phone mast would have on the value of a specific property will depend upon the relationship between the property and the mast and the persons interested in the property. For instance, a mast located on the boundary of a residential property may reduce the value of the property, but one that was situated 100 metres away may not. If the purchaser wanted excellent mobile phone reception, it may increase the value of the property to have a mast located close to the property.

It would be extremely difficult, if not impossible, to quantify the potential loss or gain in property values from the location of mobile phone masts due to the wide variation in locations of masts around the Island and the subjective nature of purchasing property. The particular circumstances and the relationship between the mast and the property would be the determining factor and they are rarely likely to be the same from one case to another.

5. The Sub-Panel recommends that the Chief Minister be requested to consider the following and to report on –

5.1 The extent of public liability insurance held by the States in respect of TETRA mast operation; and,

R.A. Rossborough (Insurance Brokers) Limited who hold the States' insurance have confirmed that the Public Liability limit of indemnity in relation to exposure to Electro-Magnetic Fields is £2,000,000 any one claim.

5.2 Tasking the Computer Services Department with overseeing the selection of the appropriate company to undertake the development of the proposed mobile telephone/TETRA mast and associated information website. To establish an appropriate management process to operate the website on behalf of the relevant States Departments and the telephone operators.

The JCRA, through a Direction from the Minister for Economic Development, has developed in consultation with the operators a web site which will supply relevant and up-to-date information on the location of masts, the results of independent testing as well as information on the current international standards in respect of safe levels of emissions. This website is targeted to be operational by 25th July 2008 and includes all mobile phone base stations and TETRA sites.

6. The Sub-Panel recommends that the Minister for Home Affairs be requested to agree to ensuring that the following action is undertaken and to report to the States prior to the end of 2007 –

6.1 That a detailed list of the location and EMF emission levels of all TETRA sites will be released as a matter of public information and provided for inclusion onto a website, as is the practice in the United Kingdom, to be funded and established by the telecommunications operators.

The location and EMF levels of all TETRA sites have been included on the website developed by the JCRA, funded by the operators. The website is targeted to be operational by 25th July 2008.

7. The Sub-Panel recommends that the Minister for Planning and Environment –

7.1 Confirms that the necessary power is available to him within the Planning and Building (Jersey) Law 2002 or subordinate legislation to insist that any existing mobile mast structures can be moved or removed if the perceived health risks associated with EMF emissions are proven and international guidelines change (or if masts are found not to be compliant with guidelines).

Under the Planning and Building (Jersey) Law 2002, the Minister for Planning and Environment only has the power to enforce the removal of a structure if it is not in accordance with the planning permission given. The planning permissions given for base stations restrict the type of equipment used and therefore restrict the power output and the emission level. The operators cannot 'turn up' the power, they cannot exceed the emissions agreed upon, and they cannot change the antennae used, without planning permission. However, as long as the structure complies with the planning permission and the structure is complete, then there is no power to enforce their removal.

If international guidelines are changed, and the masts on Jersey are proven to be dangerous to the general public, then it is within the Minister for Health and Social Services responsibility to safeguard the safety of the public and stop the dangerous activity through his existing powers under the Statutory Nuisances (Jersey) Law 1999.

7.2 To confirm that if that provision in statute is not currently available, that he will take the necessary action to ensure its addition to the existing legislation.

The powers sought are available under existing legislation of the Statutory Nuisances (Jersey) Law 1999.