

# ELECTRIC VEHICLE CHARGING POINTS – QUICK GUIDE

The roll-out of Electric Vehicle Charging Points (EVCPs) across the UK is only going to continue to gather speed, with the government's announcement last year of a ban on the sale of new petrol and diesel cars, to take effect from 2030. Changes to the building regulations regime are anticipated later this year, imposing requirements on the provision of EVCPs in new buildings going forward, with further regulation expected for 2025 in relation to existing commercial buildings with car parking.

In this briefing we set out an overview of the key issues and questions for property owners to consider in relation to EVCPs.

## WHAT IS IT PROPOSED TO INSTALL?

Not all chargers work at the same speed. It is important to understand the different capacities of the charging units and their suitability for the anticipated use. Note also that cars will have different connectors, meaning that not all EVCPs can be used by all electric vehicles.

This being the case, landowners may want to consider including obligations in their contractual arrangements with operators to ensure that any EVCPs are compatible with a specified percentage of electric vehicles on the road in the UK from time to time.



## HOW IS THE ARRANGEMENT GOING TO BE STRUCTURED?

Is the agreement between landowner and EVCP operator a purely commercial arrangement or is it, in fact, a lease? If the operator has exclusive possession of the site, care will need to be taken to ensure that rights of security of tenure under the 1954 Act are not inadvertently being given. The risk here, of course, lies with the landowner and a careful analysis will be required.

Landlords may also be approached by tenants to grant rights either to use existing EVCPs or to install new EVCPs. Thought should be given to whether any such rights are being granted on an exclusive or non-exclusive basis – which will be of particular importance on a multi-let property where the premises demised to tenants include external areas and may allow for the installation of EVCPs. Where a landlord is to agree to give an operator exclusivity over a particular site, consideration will also need to be given to the impact of the Competition Act.

Landlords will also want to ensure that, if tenants are engaging directly with operators, arrangements can be unwound and control handed back to the landlord at the end of the term.

**“UK NEEDS TO INSTALL FIVE TIMES AS MANY EV CHARGING POINTS TO MEET CLIMATE GOALS”**

Policy Exchange  
Charging Up Report

## EVCP QUICK GUIDE

**FINANCIALS****Covenant Strength**

Operator companies may be of limited covenant strength, so consider whether a parent company guarantee is required. Is operator experience more important than financial strength?

**CapEx**

CapEx on EVCPs can be significant. With fast-evolving technology, equipment will require upgrading regularly to avoid obsolescence. Who is going to bear both the initial outlay and ongoing system maintenance and upgrade costs? Who will own the equipment at the end of the agreement? Operators may seek longer term arrangements in order to recoup their initial CapEx, but this means less flexibility for landowners, who will not want to be tied into systems which may become obsolete.

There are specific capital allowances available for business incurred CapEx on EVCPs so specialist input is advisable.

**Rent**

Rental models will often be turnover/revenue linked, usually with a base rent payable. Consider whether such base rent should be subject to review – for example, subject to annual RPI linked increases and/or OMV reviews. There will currently be few comparables in the market for OMV rent review purposes.

**Charging Costs/Income**

Who are going to be the end-users of the EVCPs? Are they intended for public use or is it to be restricted to occupational tenants? If the latter, how will the charging and maintenance costs be recovered? Consider whether the operator should be required to price competitively relative to other operators in the EVCP market.

**Outgoings and Service Charge**

All electricity charges/other outgoings relating to the operation of the EVCPs will need to wash through to the operator and/or the end user. Consider on what basis (if any) the operator should be contributing to any existing service charge regime. If the installation means an increased traffic flow to the site, should the operator bear the associated repair and maintenance costs?

**WHAT TYPE OF SITE IS IT?****Existing tenanted scheme**

While the installation of EVCPs will provide a long term benefit, it will be advisable to carry out a review exercise of existing leases to establish whether the installation may interfere with rights that have already been granted, such as rights to use/demise of specific parking spaces and capacity issues in respect of electricity supply. There may also be potential disruption if extensive construction works are required and an impact on the service charge regime, for example where the EVCPs are not run off a separate electricity supply.

**New development**

Thought should be given to future-proofing the offering, so that there is flexibility to allow for changes in technology/regulatory requirements. For example, will the infrastructure being installed now be sufficient to accommodate further connections and/or an upgrade in software in the future?

**WHAT ADDITIONAL INFRASTRUCTURE/WORKS ARE NEEDED?**

Consider who is going to carry out any works and the extent of the rights being granted for the installation and then operation of the EVCPs. Are any third party consents required? Issues may include dedicated parking spaces/minimum parking space requirements, access rights, whether a new electricity substation will be needed to provide the necessary capacity, the need for a storage compound during construction and any required environmental remediation works.

From a construction point of view, it will be important to establish who is responsible for design and installation. Consider also the interface with repair and maintenance obligations and the liability for potential losses which may arise as a consequence of defective design and/or workmanship.



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### IS PLANNING PERMISSION REQUIRED?

The installation of charging points is 'development' for the purposes of the Town and Country Planning Act 1990, which needs planning permission to be lawful. EVCPs can be authorised under planning control by permitted development rights, but this is subject to numerous conditions and restrictions. Where PD rights do not apply, an application for planning permission will be needed.

### OPERATION OF THE SITE

#### Agreed Service Levels

Are there agreed KPIs/service levels? For example, operator response times in the event of a fault developing and scheduled maintenance programmes.

#### Consequences of Non-Operation

If the electricity supply is interrupted due to an act or default of the landowner, is rent to be suspended until the supply is reinstated?

Where there are turnover rent provisions, should there be a notional amount allocated in the accounting process for any period during which the EVCPs are non-operational due to the act or default of the operator? If the EVCPs are unavailable for an extended period, consider the inclusion of termination rights for the landowner.

#### Data Sharing

Landowners may want to have access to the data system for the EVCPs – consider who owns the data system for the chargers and what ability there is to share that data with third parties.

#### System Compatibility

Whilst most operators are working towards using a common system so that anyone can charge at their sites, as referred to above, at present the various systems (plugs and data) are not universally compatible. Landowners will be keen to ensure that the system installed is (and remains) appropriate for the required usage.

### CONTEXT



35k

The UK has around **35,000 public EV charge points.\***



7k

**Charge Point Operators** are installing around 7,000 new charge points each year.\*



400k

By 2030, the UK is likely to need around **400,000 public charge points**, including around 6,000 high powered charge points.\*



12BN

#### Private EVCP

Detailed data on current private EVCPs in the UK is not available but, to contextualise the commercial private demand for companies with fleets of vehicles, in a survey of 200 (million+ turnover) UK businesses\*\*, the average planned spend on EV adoption was cited as 4.5% of annual turnover between 2020-2022 which equates to £12 billion in investment. Over a quarter, (27%) of respondents, expected at least a fifth of the vehicles within their fleet to be electric by 2022.

**\*Source:** 2021 Charging Up Policies to deliver a comprehensive network of public EV chargepoints, Policy Exchange. Read the full report [here](#). **\*\*Source:** Centrica Business Solutions UK firm EV Investment Intentions 2020 survey – the full upshots of that research can be found [here](#).

## EVCP QUICK GUIDE

### SUSTAINABILITY

We are committed to running a business that is environmentally sustainable. Our efforts to minimize the firm's environmental impact are led by our Green Impact Group ("GIG"). GIG is made up of staff from across the firm which meet monthly to ensure we maintain a comprehensive sustainability policy.

We measure our sustainability performance by external, objective standards. Through our relationship with Natural Capital Partners, our carbon footprint is measured on annually. We have had carbon neutral status since 2007.

We are also a proud member of the Legal Sustainability Alliance, a group of law firms committed to working to improve the environmental sustainability of our operations and activities.

**We operate a number of sustainability schemes across the firm including:**

- Our Recycling scheme
- Our 'Turn it Off' campaign
- Our paperless drive to reduce unnecessary printing
- Our energy is sourced from renewable sources
- Our office and cleaning materials are sourced from environmentally responsible suppliers.

In terms of keeping our clients up to date on sustainability developments we have a dedicated resource, the Sustainability Hub which has a wealth of materials.

**[Sustainability Hub](#)**



**OUR SUSTAINABILITY EFFORTS HAVE BEEN RECOGNISED BY THE INDUSTRY WITH A SHORTLISTING FOR THE 2020 LEXIS NEXIS SUSTAINABILITY AWARD.**

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### CONTACT US

Should you need any further information, please do not hesitate to speak to one of our team.



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