

## EIR Request (received 11 January 2022) - Reference: DFI/2022-0013

I am instructed on behalf of British Telecommunications plc in connection with a public liability claim for damages sustained 01 December 2021.

To assist me with my investigations, and in accordance with the Freedom of Information Act 2000, I would be most grateful if you could clarify if the grass verge on Craigadick Road, Maghera, County Londonderry (image attached) forms part of the highways inspection?



Furthermore in accordance with the Freedom of Information Act 2000, I require copies of the highway inspection records together with all opening/closing notices, defect notices and records of complaints for 2 years prior to 01/12/2021. Please also provide a copy of the first post-accident highway inspection record relating to the alleged accident location.

## Response (issued 16 February 2022)

Thank you for your email dated 11 January 2022 requesting, under the Freedom of Information Act (FOI), the following information held by this office: Inspection Reports; Opening/Closing Notices; Defect Notices and Complaint Records for the two year period prior to 1 December 2021. You also requested the first routine inspection report after 1 December 2021.

In considering your request on behalf of the Department, I have determined that the information requested falls under the aegis of the Environmental Information Regulations

2004 (EIR), as opposed to Freedom of Information Act 2000. Your request is for information that relates to activities, policies or plans that affect the environment. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information.

A guide explaining the Environmental Information Regulations can be found at:

<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/what-are-the-eir/>.

The Environmental Information Regulations established general public rights of access to environmental information held by public authorities, similar to the general rights established under FOI. There is no provision for privileged access to information, it may either be released to the World at large, or it must be withheld. Any information provided in response to an information request (either FOI or EIR) is considered to have been placed in the public domain.

In response to your request, I can confirm that the Department for Infrastructure does hold information related to your request. As EIR relates to public rights of access to information, I must consider whether information is suitable for release to the world at large, and not solely to the applicant. I have examined the information you requested and carried out a public interest test to determine whether this information is suitable for release to the public.

Following consideration of the public interest in this case, I attach all information held that is suitable for disclosure to the public. However, I have determined that some of the requested information is not suitable for release and the attached records have been redacted for the following reason.

The redacted information constitutes third party personal data within the meaning of the Data Protection Act 2018 (DPA). A public authority may only release third party personal data if to do so would be fair, lawful and would meet the conditions in Schedule 2, 3 or 4 of the DPA. The Department may not disclose personal information to the public in contravention of any of the data protection principles (Article 5(1) UK General Data Protection Regulation or sections 34(1) and 85(1) DPA) and must consider all consequences of disclosure in each case.

The information provided has therefore been redacted under the exception provided under EIR by Regulation 12(3) & 13: personal information. I am satisfied that the public interest is best served by withholding this information.

I have attached the following redacted documents, which cover the period between 01 December 2019 and 10 February 2022:

- Enquiries/Complaints Records;
- Highway Inspection Records; and
- Utility Streetworks Reports.

I can also confirm that the grass verge in the vicinity of No.85 is adopted and maintained by the Department and is routinely inspected along with the adjacent carriageway.

Please note that this road was last inspected on 30 November 2021 and its next routine inspection is due in May 2022.

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