

Internal Review Request (received 17 July 2025) - Reference: DFI/2025-0266

I wish to have the decision to withhold information reviewed.

I consider that this has been done to frustrate my claim for damage to my car due to potholes which left my car unsafe.

Response (issued 2025)

You wrote to me on 17 July 2025 requesting an internal review of the handling of your Environmental Information Regulations 2004 (EIR) information request. Your request asked for information regarding vehicular damage claims received and compensation payments made by DfI. Your request was received in the Department on 12 June 2025 and clarified on 24 June 2025.

I note that you received a response to your request on 07 July 2025, from the Head of DfI Roads Claims Unit, reference under the reference

DFI/2025-0266. As Departmental Information Manager, my role in carrying out an 'Internal Review' following a complaint or 'appeal', is pursuant to the Secretary of State for Constitutional Affairs' Code of Practice [which now comes under the responsibility of the Secretary of State for the Department of Justice] on the discharge of public authorities' functions under Part 1 of the Freedom of Information Act 2000 and, by extension, the Environmental Information Regulations. Section 39 of the Code of Practice requires "a fair and thorough review of the handling issues and of decisions taken pursuant to the [Freedom of Information] Act, including decisions taken about where the public interest lies in respect of exempt information." Under the Environmental Information Regulations, this review of the handling of your request for information is a "reconsideration", a public authority obligation contained within Regulation 11 (Representations and Reconsideration). I have no role or locus with regards to any issues arising out of the substance of any information sought or the resolution of complaints, which may be the subject matter of the information.

I have examined the information relating to your request and completed my review. I can now inform you that, having reviewed the handling of your request, the Department did fulfil its obligation under the Environmental Information Regulations 2004. I would like to take this opportunity to explain my decision.

Your request for information has been processed under the Environmental Information Regulations 2004. While I appreciate that you believe that the Department's response, in

this instance, forms an effort to frustrate your claim for damages, I can categorically state that that is not the case. The Department's decision to withhold the requested data was based solely upon the probable outcomes that would be likely to arise from the publication of that information.

Like the Freedom of Information Act 2000, which relates to information that is not deemed to be environmental, the EIRs provide a general public right of access to recorded information held by public authorities. All information provided under EIR is provided to the world at large, with no provision for privileged disclosure, information, once disclosed, is public, and must be provided to anyone who wishes to see it. In addition, in line with ICO recommendations, the Department publishes requests and responses on its website.

The Department's decision, therefore, when determining whether information should be disclosed or not in response to an information request, is not whether the information can be disclosed to the requester, but whether or not it can be placed in the public domain. Effectively, this means that under both FOI and EIR, information may either be made available to absolutely anyone, or it must be withheld.

You had requested information that relates to a small number of individuals who have submitted claims for vehicular damage to the Department and, of those, the number whose claims were successful. You had asked for this information for the following two stretches of the Northern Ireland public road network:

- *the A2 dual carriageway from the Caw roundabout to the roundabout at Derry city airport; and*
- *the A6 from Dungiven to the Castledawson roundabout.*

In the Department's response, you were advised that, with no date range having been provided, the Department had interpreted that it would be reasonable to consider for disclosure the information that was held for the 2024-2025 financial year only. As I note that your request for this internal review did not take issue with the time period considered in this case, I have reviewed the handling of your request on the basis that this was the correct decision.

In the Department's response to your request, it was confirmed that the information you requested was withheld under the exception provided by Reg. 12(3) & 13 of the Environmental Information Regulations 2004. This exception provides a necessary protection for third party personal data, information that is subject to the Data Protection Act 2018 and UK General Data Protection Regulation.

Personal data is any information held about a living, identifiable, individual. While you may, reasonably, believe that simple numerical information would not constitute personal information, the position is more complex.

The Department handles personal data cautiously, in order to comply fully with the requirements of DPA 2018 and UK GDPR. The first consideration when processing any request received is always to ensure that no personal data is placed into the public domain, contrary to that legislation.

In this case, you had sought details of the very small numbers of claims received by the Department for those two lengths of carriageway.

While personal data is information that allows for a living individual to be identified, it encompasses more than names, addresses, or other details normally considered to be personal data. Removing such details from the records that the Department holds does not guarantee that information has been fully anonymised.

The Department for Infrastructure does routinely make large numerical information available, where it is satisfied that such disclosure will not inadvertently allow for the identification of living individuals. This is because, when dealing with larger numbers, it is much easier to effectively anonymise the data to prevent individuals from being identified, even incorrectly, by members of the public.

The Department will only make information available where disclosure will not allow an individual to be identified by any member of the public. Factors that must be considered include whether, if the information is being disclosed, it would allow individuals to be singled out from the record or, a more likely consideration in this case, if it could be combined with other information already in the public domain to identify any individual.

In addition, where small numbers of people are involved, there is a clear potential for other members of the public to infer that that information relates to specific living individuals. As the Information Commissioner's Office sets out in its guidance on effective anonymisation, included in any decision about disclosure is the question of 'whether the specific knowledge of others, such as doctors, family members, friends and colleagues, is sufficient additional information to allow inferences to be drawn and linked to an identifiable person'.

The number of people who will infer any identities, rightly or wrongly, from the information that the Department holds in this instance may be limited, but there remains the reasonable likelihood that living individuals would still be identified. This means the information is personal data.

It is not unreasonable to believe that at least some of those living locally to the two stretches of road that formed part of your request, would be curious about the identities of those who had made claims for vehicular damage, and, of those, who had received compensation. Where the numbers, as in this case, are limited there is a heightened likelihood of living individuals being identified because of disclosure, even from information that might not be considered to be personal data.

The only means of effectively anonymising this sort of information in relation to your request is to aggregate the data, either in terms of expanding the dates included or the area of carriageway to then provide a response that would not allow for identification. I am conscious, however, that such an approach would not meet your needs.

In conclusion, I will reiterate that I am satisfied that the response provided by the Department to your request was the correct one, considering the information held. The public interest in this case does not support the public disclosure of this information because living individuals would be identifiable. It is never in the public interest for a public authority to disclose information contrary to the provisions of the Data Protection Act and UK GDPR.

As previously mentioned, this refusal was not based on any attempt to hamper your efforts to claim damages but related solely to the outcome of publication. Other avenues may allow for privileged disclosure, but the Environmental Information Regulations do not.