

EIR Request (received 09 March 2021) - Reference: DFI/2021-0094

I am instructed on behalf of British Telecommunications plc in connection with a personal injury claim (BTP59031) being brought for personal injuries sustained following an alleged accident on 27 August 2020 on the pavement outside Savers, Newry Street, Banbridge.

To assist me with my investigations, and 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 27 August 2020. More specifically, did any of these relate to BT apparatus and were any section 81 notices filed?

Please also provide a copy of the first post-accident highway inspection record relating to the alleged accident location.

Response (issued 26 March 2021)

Thank you for your email dated 9 March 2021 requesting, under the Freedom of Information Act, any information held by this office to include:

- Inspection report for two years prior to incident
- Enquiry report for two years prior to incident
- Post incident inspection report
- Symology report for all utility works in Newry Street, Banbridge.

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, as opposed to the FOI Act 2000. 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/>.

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. I regret to inform you that, following consideration of the public interest in this case, I have determined that some of the information requested is not suitable for release.

While we can provide details of public enquiries, the associated names and address 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) General Data Protection Regulation or sections 34(1) and 85(1) DPA) and must consider all consequences of disclosure in each case.

Some of the requested information is therefore withheld under the exception provided under EIR by Regulations 12(3) & 13: personal information. I am satisfied that the public interest is best served by withholding this information.

In response to your request, I enclose the following;

1. Inspection report for 2 years prior to incident
2. Enquiry report for 2 years prior to incident
3. Post incident inspection report

I can confirm that The New Roads and Street Works Act 1991 does not apply in Northern Ireland, the corresponding article from the Street Works (Northern Ireland) Order 1995 is article 41. I can confirm that no Article 41 Notices in respect of BT apparatus have been issued for this location during the period in question.

I would take this opportunity to point out that BT have full access to NISRANS

(Northern Ireland Street Works Registration and Notification System) and can view full details for the works listed and details of any other utility works on the street without needing to revert to the use of FOI / EIR for this information.

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