

EIR Request (received 03 February 2022) - Reference: DFI/2022-0044

I am seeking the following information about Newry Road Service Division, based in Carnbane Industrial Estate, Newry:

1. Number of Road Workers employed;
2. Number of Road Workers with Reasonable Adjustments in place;
3. Number of Road Workers who have Reasonable Adjustments in place and how many have been put on 'Gardening Leave' December 2021 and January 2022; and
4. Breakdown of the Work Received during December 2021 and January 2022.

Response (issued 03 March 2022)

Thank you for your email dated 03 February 2022 requesting information in relation to road worker staff employed at the Department's Newry Depot, Carnbane Industrial Estate.

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 question, I can advise as follows:

1. There are currently 18 Road Workers employed at Newry depot.

2. In considering your request I have determined that, due to the small number of Road Workers employed in Newry depot, it is not possible to anonymise the requested information in such a way that living individuals would not be identifiable.

The requested information, therefore, 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.

I must therefore refuse to provide this information under the exception provided by Reg. 12(3) & 13: personal information (if processed under FOI, it would be similarly withheld under s40(2) of the Freedom of Information Act 2000). I am satisfied that the public interest is best served by withholding this information.

3. Please see the answer provided in response to q2.

Also the term 'gardening leave' is not used in the NICS Handbook, however, I can inform you that the arrangement of asking an individual to remain at home when management has been unable to assign work to an individual with medical restrictions, or while they await clarification from Occupational Health Service (OHS) on the duties that can be performed, has applied to a number of staff employed across all depots.

4. The range of activities ordered during this period comprised the following:

- Carriageway and footway patching;
- Velocity patching;
- Flagging and kerbing;
- Concrete repairs;
- Resetting/replacing ironwork;
- Mechanical gully cleaning/jetting;
- Manual gully cleaning/ cleaning outlets/scraping and cleaning/drainage work;
- Verge maintenance;
- Winter service including filling salt bins/grit piles; and
- Emergency response/ repair work.

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