

EIR Request (received 10 October 2022) - Reference: DFI/2022-0341

Please can you provide the number of applications received between 1st April 2021 to 31st March 2022, for the following highway licences/permits:?

Cranes/Cherry pickers/MEWPS, Hoardings/Site Fencing , Material on highway, Scaffolding, Skips, Café tables and chairs, A Boards, TTRO's/TTRN's, Section 50's, Section 171's, Crossovers / Dropped Kerbs, Highways Searches, Lane Rental Waiver Requests.

With reference to the s50 and s171 licences, for the same time period, how many notice of works, reinstatement notices and traffic management control forms were received?

Response (issued 28 October 2022)

Thank you for your email dated 10 October 2022 requesting, under the Freedom of Information Act (FOI), the above information from the Department for Infrastructure.

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. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information. EIR gives rights of public access environmental information held by public authorities.

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/>.

In response to your request, I can confirm that the Department does hold some of the information relating to your request but not in the format requested. I can also advise that the time required to comply with your request would be well in excess of the appropriate limit set out under FOI and therefore I regret to inform you that the Department will be unable to comply with your request because of the significant and unreasonable burden that it would place on staff resources.

The Environmental Information Regulations established a general, public right of access to environmental information held by public authorities, where that is in the public interest.

Whilst transparency is clearly in the public interest, the legislation also recognised that there would be occasions where it would be in the public interest to refuse requests.

The Environmental Information Regulations, unlike FOI, did not specify a fixed amount of staff costs that would represent an appropriate limit (£600 for Government Departments, set at £25 per hour of staff time), beyond which public authorities need not go to answer requests. Instead the legislation provides an exception from the general presumption in favour of disclosure, at Regulation 12(4)(b), when the burden placed on staff resources is considered to be manifestly unreasonable. The Information Commissioner's Office has made clear that, while EIR does not specify a reasonable cost of compliance, Parliament had clearly identified what would be a reasonable cost in setting the appropriate limit for FOI.

We have carried out a sample exercise to determine whether the Department can comply with your request, without placing an unnecessary burden on staff resources. I regret to inform you that this sample has shown that staff time required to comply would be well in excess of the appropriate limit set out under FOI. I have carried out a test of the public interest in this case, and am satisfied that the diversion of staff resources required is so great that the Department must refuse your request. The Regulation 12(4)(b): manifestly unreasonable exception is clearly engaged.

In Northern Ireland, local councils grant Pavement Café Licences under the provisions of the Licensing of Pavement Cafés Act (Northern Ireland) 2014, so they may be able to assist you with this element of your request.