

## **EIR Request (received 28 March 2019) - Reference: DFI/2019-0132**

Information and records relating to carriageway inspections and claims for vehicular damage associated with the Limehill Road, Lisburn.

I request under the Freedom of Information Act 2000 that you send me the inspection records from 13th August 2018 to 13th December 2018 - I also request under the Freedom of Information Act 2000 that you send me the number of claims submitted for November 2018 and the number of successful and unsuccessful claims for that period on the Limehill Road.

## **Response (issued 18 April 2019)**

I refer to your email of 28 March 2019 to Mr. Paul Bradley of this office in which you raised a number of points about the Department's road inspection frequency and its reactive maintenance regime. In addition, you also requested information under the Freedom of Information (FOI) Act.

As Head of Claims Unit, your correspondence has been referred to me to address.

Before I turn to the details of your case, I should explain that the Department has a statutory duty under the Roads Order 1993 to maintain public roads. However, there is no automatic entitlement to compensation for citizens. For a claim to be successful there must be proof of either negligence or failure by the Department to carry out its statutory duty, as set out in the Roads Order.

The legal duty requires such care to be taken as is reasonable and recognises that there are finite resources available to the Department. The Department's maintenance duty is based on proactive and reactive maintenance measures. The proactive element is delivered through regular planned highway inspections and the reactive element taken account of public complaints. It has been judicially noted that no road maintenance regime can prevent all defects or immediately deal with any defect.

Adopted roads are inspected at various frequencies depending on the nature of the roads and the volume of traffic they carry. Limehill Road is a low traffic rural road and is, therefore, inspected on a six monthly basis in line with the Department's Road Maintenance Guidelines. The planned highway inspection prior to your incident took place on 13 August 2018 and there was no actionable defects noted.

In terms of reactive maintenance, there hadn't been any previous complaints made to the Department about this defect prior to your complaint on 26 November 2018. As a result of your complaint, the Department addressed its reactive maintenance duty by way of an ad hoc inspection on 30 November 2018. This inspection resulted in a repair being completed in accordance with the target timescale for a defect of this nature on a low traffic rural road.

In these circumstances, I am satisfied that the Department has a legal defence to your claim and I regret that there is no basis on which to offer you compensation.

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/>.

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.

I have enclosed the planned and ad hoc highway inspections for the period 13 August 2018 to 13 December 2018. Please note that the attached information has been redacted.

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) General Data Protection Regulation or sections 34(1) and 85(1) DPA) and must consider all consequences of disclosure in each case.

The requested information is therefore redacted under the exception provided under EIR by Regulations 12(3) & 13: personal information. I am satisfied that the public interest is best served by not disclosing this information

In addition, I can confirm that two claims were submitted for vehicle damage incidents on this stretch of road in November 2018. In one instance compensation was paid and in the other, the claim was rejected.

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