

Dear

We are writing to you in relation to the Freedom of Information Act (FOIA) requests, added to the end of this letter for your information. These were sent out to councils across the country as an exercise to see how councils stand in regard to the actuality of 5G and its regulation.

It has become clear that many councils are not aware of certain salient factors in this regard, which affect 5G mast planning application adjudication.

We will now identify these points.

**A. International Commission on Non-Ionizing Radiation Protection (ICNIRP)**

**B. Health and Social Care Act 2012**

**C. Insurance and Liability**

**A. International Commission on Non-Ionizing Radiation Protection (ICNIRP)**

Generally, councils rely in the National Planning Policy Framework (NPPF). This framework states:

**Para 117:**

*“(b) ... for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, **will not exceed International Commission guidelines on non-ionising radiation protection; or***

*(c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennae on an existing building, mast or other structure and a statement **that self-certifies that, when operational, International Commission guidelines will be met.**”*

**Para 118.** *“Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, **or set health safeguards different from the International Commission guidelines for public exposure.**”*

However, in her letter of 27 February 2020, to the minister at the Dept of Digital Culture Media and Sport (DDCMS), Wera Hobhouse MP quotes DLA Piper - solicitors to Public Health England (PHE) now UK Health Security Agency (UKHSA), who themselves rely in ICNIRP guidelines – as saying:

***“A public body must determine how much weight to put on the PHE guidance. Equally that body must determine what other evidence from your client or other members of the public or interested parties to consider in making any decision. If it be alleged that a public body now or in the future acted unlawfully in placing reliance on the guidance, that cannot retrospectively taint the guidance with illegality.”***

This underlines the fact that, if you rely in ICNIRP, you as a council - **not the ICNIRP guidance or its issuer** - are liable.

As you can see this is completely congruent with ICNIRP’s own disclaimer below:

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## **Power Output**

We have discovered, based on information we have seen, that the power output of certain 5G masts could have output orders of magnitude, in the near field, in excess of the ICNIRP guidelines of 1mw/cm<sup>2</sup> of a time averaged exposure of 6 or 30 minutes. In addition, 5G utilises beam waves, which are collimated microwave signals. Such 5G beams of energy can go for long distances at a high power intensity - distances much greater than 50m exclusions as referred to in ICNIRP guidance - since the power of 5G beams, which are not isotropic, does not drop off in accordance with the inverse square law of physics, as does 2G, 3G and 4G radiation.

Furthermore, many councils are unaware of the 5G plate lens antennae located in certain LED streetlights. We understand that these antennae may well have power outputs again well in excess of the ICNIRP guidelines.

In view of your liability as a public body, as laid out by the MP, and your reliance in ICNIRP, and since you might be accepting ICNIRP self-certification from telecom applicants, it would seem logical, for you as a council, to ascertain whether your telecom applicants are fully in compliance with ICNIRP or not. If you are *not* relying in ICNIRP and have conducted an evaluation of ICNIRP, as DLA Piper suggested you must do, you would naturally be obliged to declare such an evaluation and your findings to the public-

As you can see, the NPPF is stating that you must not set standards for health different from the ICNIRP guidance. If you do not know what the apparatus radiation emissions of any given mast are, in relation to the guidance, how do you know that the mast is in compliance with the guidance? You might be allowing antennae installation with health standards far beyond ICNIRP and so in contravention of the NPPF. This is perhaps of particular importance in view of the liability angle, which we will return to.

## **B. Health and Social Care Act**

If the above noncompliance with ICNIRP is occurring - and evidence from ICNIRP self-certificates received by councils seems to show this is indeed happening - then how is a council to meet its obligations to protect the health of its residents? This they are obliged to do under the Health and Social Care Act 2012, section 12 (1&3). It is noted that non-ionising radiation is a recognised risk factor under section 11(3) of this Act. In order to ascertain where a council stands in relation to the concerning possibility of allowing non-ionising radiation above ICNIRP levels, then properly risk assessed Environmental Impact

Assessments (EIAs) should be undertaken. The relevant supplier, International Organization for Standardization (ISO), procedures can be invoked to bring about such risk assessments. Without these, how would a council be able to defend itself when faced with potential personal injury claims brought to it, if a self-certificate accepted by such a council shows power outputs at level orders of magnitude above the ICNIRP guideline levels?

ICNIRP does not say that there is *no* health risk associated with 5G. People with medical implants are mentioned on page 2 of the 2020 ICNIRP Guidance document as being especially vulnerable and need to be afforded extra protection: something that needs to be addressed under the obligations on local authorities within the Health and Social Care Act 2012.

<https://www.icnirp.org/cms/upload/publications/ICNIRPrfgdl2020.pdf>

Given that the NPPF states that the councils should not “**set health safeguards different from the International Commission guidelines for public exposure**” to what extent are you as a council actually informed about the ICNIRP safeguard metrics?

For example, are you aware that “**Ofcom are allowing compliance with either 1998 or 2020 guidelines, as Ofcom have yet to develop the methodology to assist licensees to make the necessary calculations to comply with 2020 guidelines**”?

And, do you as a council know that the ICNIRP 1998 guidelines state that the prevention of harm and advice about interference is beyond the scope of ICNIRP? We refer you to the reference below:

**“Compliance with the present guidelines may not necessarily preclude interference with, or effects on, medical devices such as metallic prostheses, cardiac pacemakers and defibrillators, and cochlear implants. Interference with pacemakers may occur at levels below the recommended reference levels. Advice on avoiding these problems is beyond the scope of the present document but is available elsewhere (UNEP/WHO/IRPA1993). These guidelines will be periodically revised and updated as advances are made in identifying the adverse health effects of time-varying electric, magnetic and electromagnetic field.”**

If there is no disability impact assessment in relation to this technology, it could be argued that provisions of the Equality Act 2010 may well have been broken.

### **C. Insurance and Liability**

In our FOIA requests we referred to insurance and liability. Local planning authorities (LPAs), alone, are charged with the responsibility of issuing planning permission for new 5G masts. And so there is an implicit liability in relation to the granting of such permissions, which cannot be denied therefore. That is apart from the liability which DLA Piper alludes to in relation to ICNIRP reliance. MP Wera Hobhouse makes it clear that liability for harm to health caused by 5G microwave radiation emitted by such 5G masts is an unlimited one, because no insurer will indemnify the effects of this radiation. Ms Hobhouse makes reference to Swiss Re's and Lloyds of London's refusal to insure against damaging health

effects from all wireless technology. From the replies to our FOIA requests, it would seem that councils are unaware of this.

Wera Hobhouse MP went on to say in her letter to the DDCMS in relation to PHE/ICNIRP:

***“This advice of course applies to other bodies responsible for health and safety, including multi-academy trusts which bear responsibility for the health and safety of all children and young people in their care, as well as other public sector employers. This gives no choice to public bodies about accepting a potentially catastrophic risk.”***

In light of the above, how will the government indemnify local authorities and other public bodies against future potential injury to health claims from members of the public, relating to 5G?

The question Ms Hobhouse raised above concerns the uninsurability of this technology, should it cause harm to health. She makes this clearer in her letter as follows:

***“Lloyds of London has refused to insure against health effects from all wireless technology since 2010 (Exclusion 32) and there are currently no insurers in the world who will cover this. 5G is rated a high impact risk by reinsurers Swiss Re in their Emerging Risks Report (May 2019) which states:***

***“To allow for a functional network coverage and increased capacity overall, more antennas will be needed, including acceptance of higher levels of electromagnetic radiation. In some jurisdictions, the rise of threshold values will require legal adaptation. Existing concerns regarding potential negative health effects from electromagnetic fields (EMF) are only likely to increase. An uptick in liability claims could be a potential long-term consequence...Other concerns are focused on cyber exposures, which increase with the wider scope of 5G wireless attack surfaces. Traditionally IoT devices have poor security features. Moreover, hackers can also exploit 5G speed and volume, meaning that more data can be stolen much quicker.”***

With regard to potential litigation, the Environmental Health Trust (EHT) of the US has made it known that the multinational telecom company Verizon (with offices in Reading here in the UK) takes this issue of potential injury claims seriously. Verizon declared in its 2022 statutory accounts that they have made provision for such potential claims. This clearly relates to just the sort of claims Ms Hobhouse seems to be describing.

Finally, the Daily Mail reported in April this year in relation to a new mast ***“Shropshire Council then decided no prior approval was needed for the new mast site before work could commence”*** – yet the government had already stated after a consultation on changes to permitted development rights (7 March 2022), that the law remains unchanged in relation to new masts and all new masts require Prior Approval adjudication.

We live in a long cherished parliamentary democracy and it is clearly untenable that councils might try to override statute.

We do hope that you as a council will read this correspondence carefully and find it helpful. We will write to you again if we become aware of other salient factors affecting 5G mast planning application adjudication. This email can now be cited by residents and/or interested local councillors who are objecting to 5G mast planning applications.

Please let us know if you would like documentation on any of the above and we will be happy to provide it. Our Freedom of Information requests made previously are listed below.

With kind regards

M. Kenton  
S. Holden  
J. Whitaker  
P. Mitton  
F. Leslie  
N. Martin

On behalf of  
Adult, Child, Health and Environmental Support (ACHES)  
Local Planning Authority (LPA) Investigation Committee

### **FOIA questions circulated to councils on November 29<sup>th</sup>, 2022**

#### **“For the attention of the Information Governance Team:**

Please would you supply to me the following information under this request as governed by the Freedom of Information Act:

1. The ICNIRP certificates issued for 5G masts in the Council`s area
2. The power output of each antenna in dbm or Watts for each 5G mast in the Council`s area and the power intensity drop off calculations supplied by the relevant telecom mast applicants for any 5G beams emitted from such antennae, since 5G beams do not obey the inverse square law
3. A copy of the section of the Council`s public liability insurance policy showing indemnity cover for any potential personal injury claims which might be brought to the Council in relation to harm caused by wireless pulsed microwave radiation from this 5G technology, since it is alleged that a USA telecom company is making provision for such claims in its statutory accounts and wireless technology has the same technical signature worldwide. For example, a 5G technical parameter is beam forming.
4. The Environmental Impact Assessments conducted by the Council for 5G masts in the Council`s area.”