

Dear

Ref: Councils' Public Liability policies in relation to telecom masts

The Q. & A. quoted below is taken from the question to and response from Wandsworth Borough Council in the FOIA Request for Information - WBC-FOI-05223 - Environmental Impact Assessments:

Q:- "Please would the Council send me the exact clause in their public liability insurance that shows that the Council is indemnified against claims on the Council for harm caused by emf radiation."

A:- "The current opinion of the Council's incumbent insurer is that such claims would not be covered under the Council's liability policy."

We know that the US-based multinational telecom company Verizon, with offices here in the UK, makes provision in their statutory accounts for such potential claims regarding the effects of EMF radiation (also known as RF radiation). This was discovered by the US-based EH Trust. Presumably Verizon would not make such provision if they felt they were suitably indemnified by their insurance policy.

We know too that Swisscom made the patent application referenced below. In the following abstraction from it, Swisscom discloses the carcinogenic nature of the associated EMF/RF radiation:

<https://patents.google.com/patent/WO2004075583A1/en>

"These findings indicate that the genotoxic effect of electromagnetic radiation is elicited via a non-thermal pathway. Moreover aneuploidy is to be considered as a known phenomenon in the increase of cancer risk."

Thus it has been possible to show that mobile radio radiation can cause damage to genetic material, in particular in human white blood cells, whereby both the DNA itself is damaged and the number of chromosomes changed. This mutation can consequently lead to increased cancer risk. In particular, it could also be shown that this destruction is not dependent upon temperature increases, i.e. is non-thermal."

Below is a link to an online article, which backs up the above paragraph, as abstracted below:

<https://www.microwavenews.com/news-center/cell-tower-radiation-linked-geneti>

"July 1, 2024

Senior European scientists are reporting that people living near cell phone towers show significant changes in their genetic makeup. This is the first time that chronic exposure to cell tower radiation has been linked to unrepairable genetic damage.

A team led by Wilhelm Mosgöller of the Medical University of Vienna and Igor Belyaev of the Slovak Academy of Sciences in Bratislava contend that years of low-dose RF exposure can increase the incidence of chromosomal aberrations. Such changes could lead to serious, though uncertain, health consequences, including cancer."

A tragic example of such a situation can be seen in this article:

<https://www.dailymail.co.uk/health/article-6886561/Cell-phone-tower-shut-elementary-school-eight-kids-diagnosed-cancer.html>

Lloyds of London will not insure against the harmful effects of EMF/RF radiation (CFC Underwriting Ltd state, in their reference to Exclusion 32, page 7, that they exclude any liability coverage for claims. The Electromagnetic Fields Exclusion is a General Insurance Exclusion and is applied across the market as standard and rejects such claims “*directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise.*”

In addition we see that it is councils that are liable if they follow ICNIRP guidance. Liability does not accrue to the issuer of ICNIRP guidance, nor to the guidance itself. This was set out by DLA Piper, solicitors to PHE/UKHSA as detailed in the letter from Wera Hobhouse MP to the Minister of State, Department for Digital, Culture, Media and Sport, dated 27 February 2020.

It is particularly relevant that the ICNIRP guidance refers to a **thermal** metric, whilst the Swisscom patent application states that carcinogenic effects of the relevant technology are “**non thermal**”. For this reason alone, it would surely be wise for councils to question any blind reliance on ICNIRP guidance before they face such potential liability claims.

In addition, councils are instructed not to interpret the NPPF as statute:

Lord Gill in the Supreme Court judgment in Suffolk Coastal District Council v Hopkins Homes Ltd et.al states that: “*The guidance given by the Framework (the NPPF) is not to be interpreted as if it were a statute. Its purpose is to express general principles on which decision-makers are to proceed in pursuit of sustainable development.*”

ICNIRP and NPPF are guidance and policy respectively, not statute law.

Contrary to what many believe, it now appears that, unless councils take into account the deleterious effects of 5G masts in their adjudication of such planning applications, and subsequently appropriately reject them, they could face potential associated health claims. In the absence of the requisite insurance indemnity, who would pay up in these cash strapped times?

This letter intends to draw your attention to the seriousness of the situation Councils are facing in terms of liability.

Yours sincerely,

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For and on behalf of ACHES (Adult, Child, Health and Environmental Support)