Gmail

**Planning - <planning@adur-worthing.gov.uk>**

# Additional Objections for Planning Application AWDM/0375/23

1 message

[redacted] 5 April 2023 at 14:40
To: planning@adur-worthing.gov.uk, [redacted]
Cc: [redacted]

ATTN: Case Officer: Gary Peck - [redacted], planning@adur-worthing.gov.uk
Cc Councillors: Southlands ward
[redacted]

RE: AWDM/0375/23 | Application for determination as to whether prior approval will be required for the siting and appearance of proposed 15m 5G telecommunications monopole with two wrapround cabinets at base and associated ancillary works. | Land Opposite 214 Upper Shoreham Road Shoreham-by-sea West Sussex BN43 6TQ

NB. Immediately adjacent Shoreham Southlands Hospital car park (!) on narrow pavement.

1) **Did you know that you can be held personally liable for adverse Public Health effects** caused by 5G masts (untested technology) that you might approve or allow without objection in the course of your Council planning duties? (See attached Personal liability for a councillor.pdf)

2) **Additionally, further to the submission of my OBJECTIONS below**, to the above referenced Planning Application, I am contacting you to add the following objections that I have to the proposed development:

> My objections to this mast concern the **harmful, cumulative, polluting effects from the proposal**. I refer to NPPF paragraph 180, which I understand is in conflict with paragraph 116, and with government policy to rely on ICNIRP certification. ***180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.***

3) **Please see attached "Letter to Minister for Digital & Culture_5G liability.pdf"** in which MP Wera Hobhouse stated:

"I am writing to seek clarification from the government on liability for health risks relating to the 5G rollout, in particular the issue of indemnity for public bodies charged with safeguarding and public health...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…"*

The above shows that 5G health effects are uninsurable and at the same time recognised by reinsurers as a high impact risk with regard to future litigation. Members of the campaign group Stop 5G Bath have received a letter from PHE's own solicitors, which exempts PHE from all liability in the event of future legal action relating to health effects from 5G if their guidance should turn out to be incorrect or misleading. In this letter they state:

> *"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."*

(Quote from a letter from DLA Piper, UK solicitors for PHE, to Leigh Day solicitors for Karen Churchill et al., dated 8th August 2019):

*"PHE's lawyers advise public bodies to balance PHE's guidance with evidence from other sources i.e. not only from ICNIRP. This contradicts the government's own planning regulations which require local authorities to adhere strictly to ICNIRP's guidelines...This gives no choice to public bodies about accepting a potentially catastrophic risk."*

In light of the above, please could you confirm how the government plans to indemnify local authorities and other public bodies against future property, injury and health claims from members of the public relating to 5G? MP Wera Hobhouse."

4) **The High Court of Justice issued a Consent Order on 2 November, 2021** recognising that Local Planning Authorities (i.e. Brighton and Hove) need to address the health impacts of 5G mast proposals further, quoted here: "the Council failed to address the health impacts of this particular proposal and to obtain adequate evidence of the assessment of the proximity to the school..." (See attached Consent Order 02.11.21.pdf)

5) **Relying on ICNIRP certification to justify the safety of telecom installations is an erroneous** assumption, as you will see here that "ICNIRP does not certify devices or installations" : https://www.icnirp.org/cms/front_content.php?idart=267

6) **ICNIRP 'safety' guidelines are not protective**:

"*The International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines (devised in 1998) only avoid acute, thermally induced (tissue heating) effects. They do not protect against chronic effects, or the copiously documented non-thermal, low intensity effects of non-ionising radiation which can occur several hundred thousand times below current ICNIRP guidelines.*

*Additionally, non-compliance with these guidelines has been demonstrated. Concerns regarding conflicts of interest have been raised. Analysis of proposed 5G emissions has shown that the exposure limits 'tolerated by ICNIRP may lead to permanent tissue damage even after short exposures'.*

*Their updated guidelines address this issue but actually allow higher overall cumulative exposures and concerns persist. They have been shown to make 'extensive incorrect and misleading statements' in important literature appraisals and independent groups have suggested evidence based replacement guidelines."* (See attached PDF - 2020-Non-Ionising-Radiation-Consensus-Statement.pdf)

7) **October 2022 - https://icbe-emf.org/activities**:

* ICBE-EMF scientists report that exposure limits for radiofrequency (or wireless) radiation set by ICNIRP and the FCC are based on invalid assumptions and outdated science, and are not protective of human health and wildlife.

* ICBE-EMF calls for an independent assessment of the effects and risks of radiofrequency radiation based on scientific evidence from peer-reviewed studies conducted over the past 25 years. The aim of such assessment would be to establish health protective exposure standards for workers, the public and the environment.

* The public should be informed of the health risks of wireless radiation and encouraged to take precautions to minimize exposures, especially for children, pregnant women and people who are electromagnetically hypersensitive.

* ICBE-EMF calls for an immediate moratorium on further rollout of 5G wireless technologies until safety is demonstrated, and not simply assumed.

**Therefore, I have good reason to believe that this proposal would cause harm to nearby residents, children, the elderly and wildlife at radiation levels well below the ICNIRP guidelines, and I ask that the evidence contained in this objection be properly assessed by the Director of Public Health, Pollution Control Officer or someone with the expertise to evaluate it, so that an evidence-based determination of the material planning consideration "incompatible and unacceptable use of the site" can be determined.**

I urge you to read carefully the documents attached to this email, and to do more research on this subject, in order to be more fully informed of the harmful effects of electromagnetic radiation on public and environmental health.

For your convenience I post here below some excellent reference sources:

(i) Mendip Council – recent mast refusal based on health impact - https://rfinfo.co.uk/mendip-council-health-impact-based-mast-refusal/

(ii) Just published is a new review by Balmori to update the knowledge on the effects of base stations on humans living around the antennas. It has found that 73.6% of the studies showed effects: 73.9% for radiofrequency sickness, 76.9% for cancer, and 75.0% for changes in biochemical parameters. www.sciencedirect.com/science/article/abs/pii/S0013935122011781?via%3Dihub#preview-section-snippets

iii) The crucial findings of the New Hampshire Commission: The New Hampshire Commission To Study The Environmental and Health Effects of Evolving 5G Technology was formed through legislation by the state of New Hampshire to include 13 experts in physics, toxicology, electro-magnetics, epidemiology, biostatistics, occupational health medicine, public health policy, business and law. In their 2021 Final Report they state that wireless telecommunication antennas should be placed at least 500m from residents, parks, playgrounds, hospitals, nursing homes, day care centres, and schools. The report can be found here: www.gencourt.state.nh.us/statstudcomm/committees/1474/reports/5G%20final%20report.pdf (Page 13 and Pages 100-109 reference the 500m setback recommendation and the studies used to arrive at this recommendation.) The findings of the report are evidence-based and therefore globally applicable.

(iv) Problems with official ICNIRP exposure limits for electromagnetic radiation https://www.jrseco.com/problems-with-official-icnirp-exposure-limits-for-electromagnetic-radiation/

(v) The Central Association of Agricultural Valuers (CAAV) is urging landowners to request information on radiation exclusion zones from operators of telecoms masts located on their land - https://www.caav.org.uk/news/beware-dangers-of-telecoms-masts

(vi) A recent EU Commission decision from 7th October 2021 to investigate and propose legislation to protect citizens and the environment from these threats. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D1828&from=EN

(vii) European Parliamentary Research Service, "a need to measure real potential exposure to 5G and update the safety limits of such exposure does exist." - https://www.sageobserver.com/5g-will-unleash-a-colossal-public-health-nightmare/

(viii) European Parliament: 5G Health Effects and Environmental Impacts 21 July, 2021 - "The review shows: 1) 5G lower frequencies (700 and 3 600 MHz): a) sufficient evidence of carcinogenicity in epidemiological studies; b) sufficient evidence of carcinogenicity in experimental bioassays; c) sufficient evidence of reproductive/developmental adverse effects in humans; d) sufficient evidence of reproductive/developmental adverse effects in experimental animals." https://www.saferemr.com/2020/12/european-parliament-workshop-on-5g.html

(ix) A study by Starkey in 2016 shows that there are a number of important points in the ICNIRP guidelines that are not right. Forty studies demonstrating DNA damage are missing, 40 studies showing that electromagnetic radiation produces free radicals in the body are missing, and 22 studies demonstrating effects on male fertility. It also emerges that the members of ICNIRP have various conflicts of interest...The ICNIRP standards are mainly based on acute warming effects, with more than one degree of temperature increase. By now, in several thousand studies, biological effects such as DNA damage have been demonstrated to occur at exposure levels far below these standards - https://www.jrseco.com/problems-with-official-icnirp-exposure-limits-for-electromagnetic-radiation/

Yours Sincerely,

J. Philipps

> **Sent:** Wednesday, April 05, 2023 at 2:29 PM
> **From:** planning@adur-worthing.gov.uk
> **To:** [redacted]
> **Subject:** Comments for Planning Application AWDM/0375/23
>
> # Comments for Planning Application AWDM/0375/23
>
> Dear Sir/Madam,
>
> Mr J Philipps,
>
> You have been sent this email because you or somebody else has submitted a comment on a Planning Application to your local authority using your email address. A summary of your comments is provided below.

Comments were submitted at 05/04/2023 2:29 PM from Mr J Philipps.

## Application Summary

| | |
|---|---|
| Address: | Land Opposite 214 Upper Shoreham Road Shoreham-by-sea West Sussex |
| Proposal: | Application for determination as to whether prior approval will be required for the siting and appearance of proposed 15m 5G telecommunications monopole with wraproud cabinet at base and associated ancillary works. |
| Case Officer: | Gary Peck |

Click for further information

## Customer Details

| | |
|---|---|
| Name: | Mr J Philipps |
| Email: | [redacted] |
| Address: | 23 - 24 New Broadway, Worthing, West Sussex BN11 4HP BN11 4HP |

## Comments Details

| | |
|---|---|
| Commenter Type: | Member of the Public |
| Stance: | Customer objects to the Planning Application |
| Reasons for comment: | - Design<br>- Loss of General Amenity<br>- Other<br>- Overdevelopment |
| Comments: | The proposed antenna and associated equipment will be obtrusive, ugly and incongruous with the surrounding character and appearance of the area, contributing to visual clutter resulting in detriment to the visual amenities of the surrounding area, as well as a harmful impact to the outlook of residential properties nearby.<br><br>The 5G equipment would result in an imposing and overbearing impact on the amenity of the nearby area causing local residents unnecessary upset and anxiety, impacting the quality of the local area.<br><br>The mast may create a visual distraction to road users, and its associated equipment cabinets would clutter and degrade the look and feel of the area.<br><br>GPDO - The proposed development would not comply with Condition A.3(4)(a) of Schedule 2 Part 16 of the General Permitted Development Order as the proposed development, by reason of its siting and appearance be an unsightly, bulky and incongruous addition to the character of the local area.<br><br>Our government has decreed that telecommunication companies must ensure the cumulative non-ionising exposure of these masts stay within ICNIRP limits. Who is policing that across all telecommunication companies and all installed masts? The safety of EMF technology is based on the premise that the ICNIRP guidelines are suitable safety limits. These guidelines do not safeguard against the biological effects of this technology. Numerous scientific studies demonstrate these EMF's cause cancer and other disease.<br><br>In 2008 the Head of ICNIRP, stated that ICNIRP Guidelines were technical and were not intended as medical or biological exposure guidelines. The ICNRIP is now being questioned worldwide as to its very credibility. The precautionary principle should be followed until there is concrete proof that this technology is entirely safe for all life on earth.<br><br>According to The National Planning Policy Framework :<br><br>- Planning policies and decisions should aim to achieve healthy, inclusive and safe places -section 8.91<br><br>- Planning policies and decisions should contribute to and enhance the natural and local environment-section 15.170<br><br>- The number of masts should be kept to a minimum and equipment should be sympathetically designed -section 10.115<br><br>- Policies should prioritise full fibre connections (as these connections will, in almost all cases, provide the optimum solution) -section 10-112 |

This application contradicts all of these.

Kind regards

**4 attachments**

- **2020-Non-Ionising-Radiation-Consensus-Statement.pdf**
  1749K
- **Consent Order 02.11.21.pdf**
  126K
- **Letter to Minister for Digital & Culture_5G liability.pdf**
  96K
- **Personal liability for a councillor.pdf**
  107K

# 2020 Consensus Statement of UK and International Medical and Scientific Experts and Practitioners on Health Effects of Non-Ionising Radiation (NIR)

**Author: Dr. Erica Mallery-Blythe  Release date: 10/11/2020**
**(Signed by groups representing > 3500 medical doctors)**

**On Behalf of:**
**Physicians' Health Initiative for Radiation and Environment (PHIRE)**
**British Society for Ecological Medicine (BSEM)**

**Endorsed by further Medical Groups:**
**Alborada Foundation (Spain)**
**American Academy of Environmental Medicine (AAEM)**
**Australian College of Nutritional and Environmental Medicine (ACNEM)**
**European Academy for Environmental Medicine (EUROPAEM)**
**Italian Association of Doctors for the Environment (ISDE Italia)**
**National Association of Environmental Medicine (NAEM USA)**
**Ralf Meyer Akademie Komplementarmedizin**
**Kompentenzinitiative (Germany)**

**Endorsed by Scientific Groups:**
**EM Radiation Research Trust (RRT)**
**Environmental Health Trust (EHT)**
**International EMF Alliance (IEMFA)**
**International Guidelines on Non-Ionising Radiation (IGNIR)**
**Oceania Radiofrequency Scientific Advisory Association (ORSAA)**



Correspondence to Dr. Erica Mallery-Blythe:  info@phiremedical.org  on behalf of Physicians' Health Initiative for Radiation and Environment (PHIRE) and British Society for Ecological Medicine (BSEM)

# 2020 Consensus Statement of UK and International Medical and Scientific Experts on Health Effects of Radiofrequency Radiation (RFR)

**The statement reflects the consensus from the most recent, independent, expert global forums[1,2,3,4,5,6] on the acute and chronic health effects resulting from Radiofrequency Radiation (RFR).**

**The statement clarifies the medical community's serious concerns surrounding the deployment of 5G and the continued use of RFR in public spaces.**

## Urgent action is required to protect the health of humans and wildlife.

### Public Health Crisis:

1. RFR has been proven to damage biological systems at intensities below ICNIRP* guidelines.
2. Public exposure to RFR is already harmful and will rise with the deployment of 5G.
3. Exposure is unavoidable, contravening the Human Rights Act for those who do not consent.
4. Multiple international governmental health advisory groups are biased by conflicts of interest.

*ICNIRP: International Commission on Non-Ionising Radiation Protection

### Required Urgent Actions:

1. Immediate moratorium on 5G, wireless smart metering and any other new RF emissions.
2. Establishment of public safety limits to be biologically protective against adverse health effects.
3. Withdrawal of Wi-fi, wireless phone and other RFR emissions from within / near all schools.
4. Designation of low EMR* areas to protect those who are unwell or do not consent to exposure.
5. Education programmes to inform medical professionals on EMR related illnesses / effects.
6. A zero tolerance approach to industrial influence on public health policy and assured exclusion of those with conflicts of interest from official advisory bodies.

*EMR: Electromagnetic Radiation

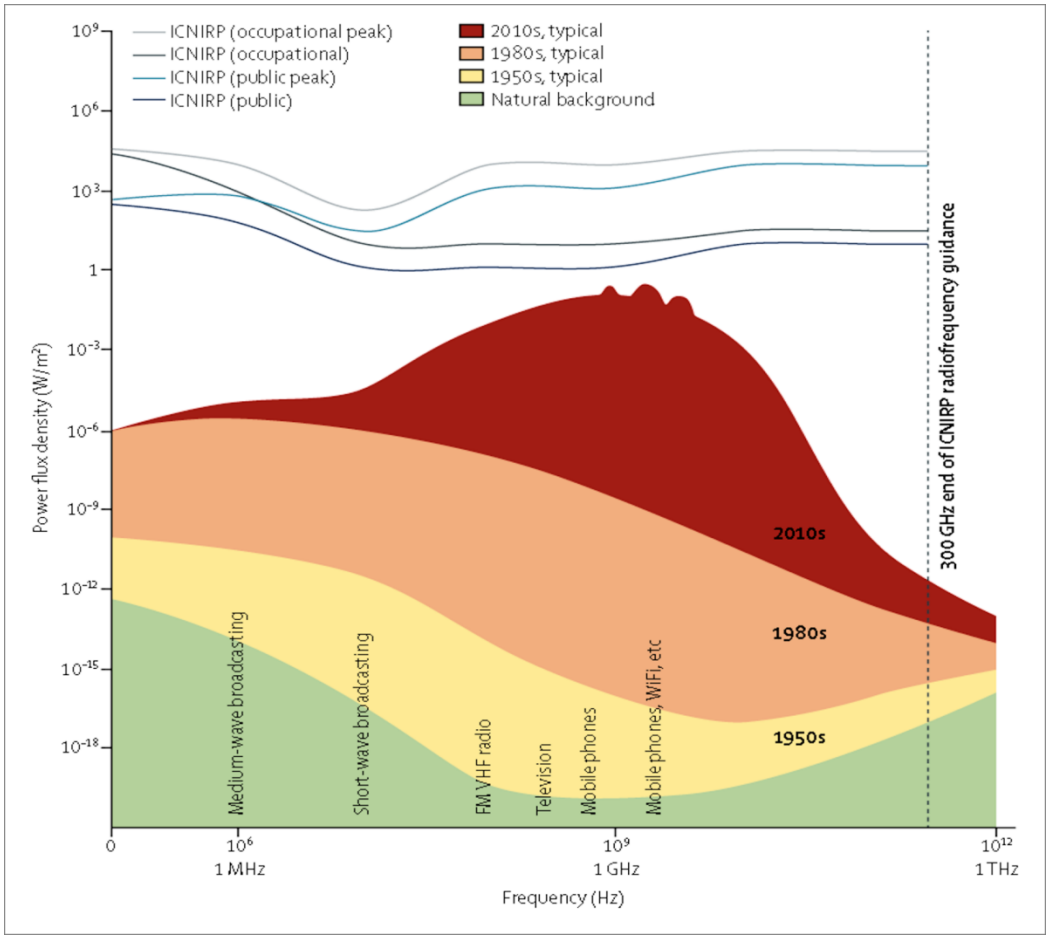
Also endorsed by the following scientific organisations:

Correspondence to Dr. Erica Mallery-Blythe: info@phiremedical.org on behalf of Physicians' Health Initiative for Radiation and Environment (PHIRE) and British Society for Ecological Medicine (BSEM)

## Introduction

During the last four decades, there has been an exponential increase in ambient radiofrequency radiation (RFR) that continues to rise at an unprecedented rate. In addition, the increases occupy an unnatural portion of the frequency spectrum and now reach intensities of up to $10^{18}$ (quintillion) times higher than natural, background levels of RFR (see Figure 1 below).

## Figure 1




**Typical maximum daily exposure to radiofrequency electromagnetic radiation from man-made and natural power flux densities in comparison with International Commission on Non-Ionizing Radiation Protection safety guidelines[1]**
Permission: Alasdair Philips, Powerwatch http://www.powerwatch.org.uk/ published: Bandara P, Carpenter D, The Lancet Planetary Health Vol 2 December 2018 'Planetary electromagnetic pollution: it is time to assess its Impact"[110]

RFR is emitted by mobile phones, base stations, Wi-fi enabled routers and computers, cordless land line phones, security systems, fitness watches, baby monitors, many other modern devices including wearable tech, internally emitting devices and products advertised for use close to foetuses or newborn babies. 5G will include higher frequencies transmitted by directional phased array antennas which have not been pre-market safety tested under realistic conditions in combination with existing emissions. Additionally the planned Internet of Things (IoT) will lead to higher cumulative exposures. International independent experts agree that this evolution is not safe for deployment[7,8]. Existing emissions have already been shown to damage biological systems within lifelike exposure parameters[9,10,11,12]. Damages include: increased cancer risk, increase in harmful free radicals, genetic damage, structural and functional changes of the reproductive system, learning and memory deficits, neurological disorders, and negative impacts on general well-being in humans[7] and the addition of higher frequencies and overall increased exposures are therefore predicted to cause further health damage[13,14].

The following pages summarise some of the evidence supporting our concerns.

## Background

### 1) Cancer risk noted from human epidemiological research corroborated by largest new animal studies:

In 2011, the World Health Organisation (WHO) via the International Agency for Research on Cancer (IARC) classified RFR as Group 2B 'Possibly carcinogenic to humans'[15]. Glioblastoma Multiforme (GBM), an associated rapidly progressive fatal brain cancer and acoustic neuroma, satisfy the Hill criteria for causality from RFR exposure based on human epidemiological studies[16]. Human epidemiological evidence has continued to accumulate since[17-22,23]. In 2018 the largest animal study so far, published from the highly credible US National Toxicology Program (NTP)[24,25] declared the evidence for carcinogenesis 'clear', putting pressure on IARC to reassess urgently and elevate RFR to Group 1 'Known Human Carcinogen'[26,27]. Furthermore, the large-scale Ramazzini Institute study[28] which used far field radiation designed to emulate base station type radiation was published shortly afterwards and independently confirmed promotion of carcinogenesis in cells of glial derivation. Legal authorities continue to validate the causal link between RFR and tumours.[29] The incidence of these kinds of brain tumours are rising in the UK[30], Netherlands[31], Australia[32] and USA[33,34].

### 2) Global medical, scientific, political and ethical warnings are escalating:

Accompanying this warning from WHO / IARC, are warnings from medical doctors groups,[8,35-44] scientific panels,[9,10,11,45-56] and numerous, global governmental groups[57-67].

### 3) Enough valid research has been conducted to justify action to protect against health effects:

Many hundreds of peer-reviewed scientific papers have now been published on biological effects of non-ionising radiation demonstrating effects occurring in response to a range of frequencies. It should be noted that modulations to RF communications fall within the Extremely Low Frequency (ELF) range. It remains unclear whether it is the RF or ELF frequencies that are most bioactive, but that academic question does not need to be answered at this point in order to be clear that the technology is not safe, as both existing and proposed emissions contain both portions of the spectrum integrated in this way. The evidence base for certain types of biological interference is extremely strong. In excess of 90% of publications noted oxidative stress, both in vitro and vivo (animal studies).[68] Oxidative stress can damage multiple biological systems and is implicated in many diseases of high public health importance such as Alzheimer's, cancer, cardiovascular disease and infertility.

### 4) ICNIRP 'safety' guidelines are not protective:

The International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines (devised in 1998)[69] only avoid acute, thermally induced (tissue heating) effects. They do not protect against chronic effects, or the copiously documented non-thermal, low intensity effects of non-ionising radiation which can occur several hundred thousand times below current ICNIRP guidelines[9]. Additionally, non-compliance with these guidelines has been demonstrated[70,71]. Concerns regarding conflicts of interest have been raised[72,73]. Analysis of proposed 5G emissions has shown that the exposure limits 'tolerated by ICNIRP may lead to permanent tissue damage even after short exposures'.[74] Their updated guidelines[75] address this issue but actually allow higher overall cumulative exposures and concerns persist[76]. They have been shown to make 'extensive incorrect and misleading statements' in important literature appraisals[77] and independent groups have suggested evidence based replacement guidelines[9,78,79,94].

### 5) A growing global movement to protect citizens by authorities has begun:

Some countries have chosen to adopt safety limits orders of magnitude below ICNIRP guidelines based on scientifically observed biological effects. Furthermore, some such as France[60] have already banned or restricted Wi-fi in some educational settings accommodating children. Others such as Cyprus have government led, targeted public information campaigns and medical statements published to better inform and educate their citizens[59]. These important steps are overdue in the UK and public health agencies are currently failing in their duty to safeguard and inform the UK population regarding the proven hazards of these emissions.

Correspondence to Dr. Erica Mallery-Blythe: info@phiremedical.org on behalf of Physicians' Health Initiative for Radiation and Environment (PHIRE) and British Society for Ecological Medicine (BSEM)

**6) Health Authorities' guidance is often out of date, biased and inaccurate:**

Resources from advisory groups including Public Health England (PHE) and WHO, are lacking appraisal of the latest research regarding this fast-moving subject. Additionally, there are often conflicts of interest within these groups and many public statements do not stand up to scientific scrutiny[72,77]. Specifically, the Advisory Group on Non-Ionising Radiation (AGNIR) report of 2012 that was used to construct current UK policy is out of date and has been found to be 'inaccurate', 'biased' and 'misleading'.[80] The group has disbanded but, nonetheless, the report is still being used to inform current policy.[81]

**7) Sensitive sub-groups are neglected:**

Age, gender, genetics, Electromagnetic Hypersensitivity (EHS) (see below) and co-morbidities may all affect individual vulnerability. Pregnant females and their foetuses are also especially vulnerable.

Children are more vulnerable due to multiple factors:[82]. It is noteworthy that brain tumours have overtaken leukaemia as a leading cause of cancer death in young people.

a) Children absorb more radiation:
   - The brain of a child (age 5-8yrs) can absorb 2x the radiation of an adult.[83]
   - Exposure in bone marrow can be up to 10x greater than an adult.[84]

b) Outcomes in children may be worse as:
   - Children have systems which are still developing.
   - Children have a longer time ahead for latent effects to manifest.

There is inconsistent advice regarding radiation exposure for children in the UK. The Chief Medical Officers state that: "children and young people under 16 should be encouraged to use mobile phones for essential purposes only"[85]. This advice is also underpinned by a medical doctors' appeal[41] (signed by more than 1,000 physicians) stating "Children below the age of 8 should not use cell phones and cordless phones; children and adolescents between the ages 8 and 16 should also not use cell phones or only use them in the case of an emergency". However, this advice was never effectively communicated to the public and children are still encouraged to use RFR emitting tablets, computers and numerous other wireless devices (including sometimes mobile phones) in school. The same caution should apply for tablets and other similar RFR sources as their maximum Specific Absorption Rates (SARs) are comparable and in some cases higher. Additionally, these devices are often held near to sensitive areas such as the reproductive organs. Wi-fi shares the same carcinogenic status as other forms of RFR under the IARC classification and is also "an important threat to human health" in numerous ways, additional to its carcinogenicity.[86] Hard wired alternatives should clearly be implemented in schools.

Those with Electromagnetic Hypersensitivity (EHS) are also acutely vulnerable:

EHS is a multisystem medical condition characterised by physical symptoms associated with anthropogenic electromagnetic field exposure. Similar constellations of symptoms may also be seen in the general population where exposures to RFR are higher. Some have suggested a 'nocebo response' (symptoms induced by fear of exposure) as the mechanism behind the reaction. This explanation does not withstand scientific scrutiny. EHS is proven to be a physical response under blinded conditions[87,88], biomarkers are being identified[89] and mechanisms that may explain the reaction are evolving [90,91,92,93]. Advice from multiple international medical doctors groups and governmental groups is to decrease exposures in order to relieve symptoms (also see point 2 above). Additionally, guidelines for EHS diagnosis and management have been peer-reviewed and published which make clear that the mainstay of medical management is avoidance of anthropogenic electromagnetic fields[94,95,96]. Disability and compensation cases for those with EHS are already being won and will continue to escalate.

**8) Human Rights:**

There are clear human rights violations, particularly for vulnerable groups[97]. In essence many of these also apply to any individual who does not consent to exposure in their home, place of work or public building and yet is being given no choice. People all over the world are making their unwillingness to be exposed abundantly clear[98] via protests, letters and where there is resource, legal actions[71,99,100,101,102,103]. At its core, this is an issue of consent and there can be no defensible argument for forcibly exposing those who do not consent. That is a breach of the Nuremburg Code as well as numerous Human Rights. The 'Rights of a Child' and unborn child are currently also being contravened by these exposures and parents who strive to protect their children currently have no avenue to achieve this without complete public isolation. Indeed, they may even be unable to prevent their children's exposures in their own property given the penetration of EMF over large distances and through walls. There are adults and children who have severe acute symptoms and in some cases they can prove life threatening. Additionally, the extreme measures some are forced to take to avoid exposures (such as primitive camping for example) can also lead to lack of access to medical care, social support, isolation from basic necessities such as food, water and shelter and to hostile exposures such as extremes of temperature.

It is noteworthy also that as individuals prove they have been harmed by RFR exposures, (which is certainly already happening[29]), there is also likely no insurance coverage, which enhances the injustice of this situation. Following in depth analysis of the scientific literature and thorough risk assessment, underwriters consider risks of RF to be 'high impact'[104]. Governmental bodies could therefore be forced to 'self insure'. This would present the very unethical situation that the taxpayer could ultimately pay for health damages incurred by exposures that they never consented to and in many cases actively refused.

**9) Precautionary Principle and public Health:**

The application of the Precautionary Principle[105] has been called for over many years, by multiple credible, professional organisations and most recently by the European Parliament[67]. This is now crucial in order to protect both public health and the economy given the already apparent escalating health costs. RFR has been proven to damage biological systems at levels well below those claimed to be safe within the ICNIRP guideline levels. Public exposures to existing levels of RFR are already harmful and will rise substantially with the deployment of 5G[106,107].

In truth, we are now beyond the point of precaution and protection of vulnerable groups is an emergency. RF has been shown to cause widespread, multisystem health detriment[68] and effects on the immune system have been demonstrated in some peer-reviewed published studies[108].

Given the extraordinary pressure on public health provision in 2020, the simple measure of halting further RF exposures via 5G is a proportionate and logical measure in order to optimise the biological resilience of the population.

Given the current planetary environmental crisis and impact of electromagnetic fields also on the health of wildlife[109,110,111] and with higher 5G frequencies affecting insects in particular[112], it is not just protection of human health from harmful effects of anthropogenic radiation which constitutes an emergency but actually that of all global life.

Correspondence to Dr. Erica Mallery-Blythe: info@phiremedical.org on behalf of Physicians' Health Initiative for Radiation and Environment (PHIRE) and British Society for Ecological Medicine (BSEM)

## Conclusion:

The short-sighted reason given for this 'race' to deploy 5G, is economic growth. This argument is fallacious given that a physically and mentally unhealthy community will never be able to fulfil their true potential for economic growth and productivity. Even small impairments to certain health parameters can equate to very large public health detriment when large numbers of individuals are affected. In this case the entire population will be affected and this could therefore have highly damaging implications both for the overall health of nations and consequently for their economies.

There need to be sincerely progressive remedies to facilitate technological evolution in ways which are not damaging to biological systems, and these can only be pursued once the current science is honestly appraised and medically ethical solutions are actively sought. Right here and right now, hard wired alternatives present a safer, sustainable and accessible path forward.

**We the undersigned state that the above 'Urgent Action Points' must be addressed immediately by the UK Government and other governments internationally, in order to prevent avoidable human injury, disease, deaths and potentially irreversible environmental damage. People must be allowed to retain the right not to be exposed against their will. Where prevention of harm may have already failed we also request clear communication to the public regarding who is accountable and liable for health damages. We request a response from Public Health England and Her Majesty's Government to clarify accountability and the measures which will be taken to address the above 'Urgent Action Points' within 28 days of receipt of this communication.**

Disclaimer: This document is based on current knowledge and does not constitute any form of (e.g. medical or legal) advice. Great care has been taken to ensure the validity of the information provided but no liability is accepted by the author(s), parent organisation(s), or any other connected group(s) or individual(s), for damages or any (other) cost or burden arising in relation to its use/interpretation by any person or other entity.

Correspondence to Dr. Erica Mallery-Blythe: info@phiremedical.org on behalf of Physicians' Health Initiative for Radiation and Environment (PHIRE) and British Society for Ecological Medicine (BSEM)

## References:

### (All are clickable hyperlinks)


[1] 5th Paris Appeal Congress, 18th May, 2015. Royal Academy of Medicine, Belgium
[2] Physicians' Health Initiative for Radiation and Environment (PHIRE) 5th Nov 2018, London, UK
Press Conference on Health Effects of Non-Ionising Radiation (NIR) and the implementation of 5G
[3] British Society for Ecological Medicine (BSEM) 5G International Medical Conference, 27th Sept 2019 London, UK.
5G The Fact, Risks and Remedies
[4] International Public Symposium 4th – 6th Oct 2019, Electoral Palace, Mainz, Germany.
Biological effects of wireless technology
[5] Radiation Research Trust (RRT) International Conference on 5G, 28th Sept 2019, London, UK
Can Wireless Communications Damage Your Health?
[6] International EMF Conference 2019 California, USA
Three Day international medical conference with 'Continuing Medical Education' (CME) accreditation for attendees
[7] The 5G Appeal: 2017. As of April 19th 2020, 353 scientists and medical doctors have signed the appeal.
[8] International Society of Doctors for Environment. Di Ciaula, A. 2018 Apr ISDE Scientific Office
International Society of Doctors for Environment 5G networks in European Countries: appeal for a standstill in the respect of the precautionary principle
[9] BioInitiative Working Group, Sage, C., Carpenter, D., BioInitiative Report: A Rationale for a Biologically-based Public Exposure Standard for Electromagnetic Radiation December 31, 2012, as updated in 2014, 2018. 2019 and 2020 www.bioinitiative.org
[10] The EMF Call, 2018. By November 26th, 2018, signed by 164 scientists and medical doctors together with 95 non-governmental organizations. Call for Truly Protective Limits for Exposure to Electromagnetic Fields (100 kHz to 300 GHz)
[11] International EMF Scientists Appeal
April 30th, 2020, 253 EMF scientists (published in this field only) from 43 nations have signed the Appeal.
[12] Kostoff, N., et al., 2020. Adverse Effects of 5G mobile networking technology under real-life conditions. Elsevier, Toxicology Letters 323 (2020) 35-40 https://doi.org/10.1016/j.toxlet.2020.01.020
[13] Russell, C., 2018. "5G wireless telecommunications expansion: Public health and environmental implications". Environ Res. 2018 Aug;165:484-495. doi: 10.1016/j.envres.2018.01.016. Epub 2018 Apr 11th.
https://www.ncbi.nlm.nih.gov/pubmed/29655646
[14] Di Ciaula A. Towards 5G communication systems: Are there health implications?. Int J Hyg Environ Health. 2018;221(3):367-375. doi:10.1016/j.ijheh.2018.01.011
[15] World Health Organization: International Agency for Research on Cancer (IARC), Press Release No. 208, May 31st 2011. IARC Classifies Radiofrequency Electromagnetic Fields as Possibly Carcinogenic to Humans
[16] Hardell L, Carlberg M, 2016. Evaluation of Mobile Phone and Cordless Phone Use and Glioma Risk Using the Bradford Hill Viewpoints from 1965 on Association or Causation, BioMed Research International,Volume 2017, Article ID 9218486
https://doi.org/10.1155/2017/9218486
[17] Bortkiewicz A, Gadzicka E, Szymczak W. Mobile phone use and risk for intracranial tumors and salivary gland tumors - A meta-analysis [published correction appears in Int J Occup Med Environ Health. 2017 Jun 19;30(4):685]. Int J Occup Med Environ Health. 2017;30(1):27-43. DOI: https://doi.org/10.13075/ijomeh.1896.00802
[18] Di Donato, I., Federico, A. News on the journal Neurological Sciences in 2017. *Neurol Sci* 39, 15–21 (2018). https://doi.org/10.1007/s10072-017-3241-x
[19] Yang M, Guo W, Yang C, et al. Mobile phone use and glioma risk: A systematic review and meta-analysis. *PLoS One*. 2017;12(5):e0175136. Published 2017 May 4. https://doi:10.1371/journal.pone.0175136
[20] Cardis E, Armstrong BK, Bowman JD, et al. Risk of brain tumours in relation to estimated RF dose from mobile phones: results from five Interphone countries. Occupational and Environmental medicine 2011; 68(9): 631-40. https://doi:10.1136/oemed-2011-100155
[21] Momoli F, Siemiatycki J, McBride ML, et al. Probabilistic Multiple-Bias Modeling Applied to the Canadian Data From the Interphone Study of Mobile Phone Use and Risk of Glioma, Meningioma, Acoustic Neuroma, and Parotid Gland Tumors. Am J Epidemiol. 2017;186(7):885-893. https://doi:10.1093/aje/kwx157
[22] Luo J, Li H, Deziel NC, et al. Genetic susceptibility may modify the association between cell phone use and thyroid cancer: A population-based case-control study in Connecticut. Environmental Research 2020; 182: 109013. https://doi.org/10.1016/j.envres.2019.109013
[23] Choi, Y.-J.; Moskowitz, J.M.; Myung, S.-K.; Lee, Y.-R.; Hong, Y.-C. Cellular Phone Use and Risk of Tumors: Systematic Review and Meta-Analysis. Int. J. Environ. Res. Public Health 2020, 17, 8079. https://www.mdpi.com/1660-4601/17/21/8079#cite
[24] Wyde, M.E. et al., 2018. National Toxicology Program Technical Report on The Toxicology and Carcinogenesis Studies in Hsd: Sprague Dawley SD Rats Exposed to Whole-Body Radio Frequency Radiation at a Frequency (900 Mhz) and

Modulations (GSM And CDMA) Used by Cell Phones, National Institutes of Health Public Health Service U.S. Department of Health and Human Services

[25]Melnick, R, L., 2018. Commentary on the utility of the National Toxicology Program study on cell phone radiofrequency radiation data for assessing human health risks despite unfounded criticisms aimed at minimizing the findings of adverse health effects. Environ Res. 2019 Jan;168:1-6. doi: 10.1016/j.envres.2018.09.010. Epub 2018 Sep 20. https://www.ncbi.nlm.nih.gov/pubmed/30243215

[26] Hardell, L., Carlberg, M., 2019. "Comments on the US National Toxicology Program technical reports on toxicology and carcinogenesis study in rats exposed to whole-body radiofrequency radiation at 900 MHz and in mice exposed to whole-body radiofrequency radiation at 1,900 MHz". International Journal of Oncology 54, no. 1 (2019): 111-127. https://doi.org/10.3892/ijo.2018.4606

[27] Peleg et al., 2018. Radio frequency radiation-related cancer: assessing causation in the occupational/military setting. Environ Res. May;163:123-133. doi: 10.1016/j.envres.2018.01.003

[28] Falcioni et al., 2018. Report of final results regarding brain and heart tumors in Sprague-Dawley rats exposed from prenatal life until natural death to mobile phone radiofrequency field representative of a 1.8 GHz GSM base station environmental emission. Environ Res. 2018 Aug;165:496-503. doi: 10.1016/j.envres.2018.01.037.

[29] The Court of Appeal of Turin full judgment, 13 January 2020 (904/2019 of 3.12.2019 , Romeo v. INAIL https://www.globalresearch.ca/court-appeal-turin-confirms-link-between-head-tumour-mobile-phone-use/5701050

[30] Philips et al., 2018. Brain tumours: rise in Glioblastoma Multiforme incidence in England 1995–2015 suggests an adverse environmental or lifestyle factor. Journal of Environmental and Public Health 2018 Apr 21 https://doi.org/10.1155/2018/7910754

[31] Ho VK, Reijneveld JC, Enting RH, et al. Changing incidence and improved survival of gliomas. European Journal of Cancer 2014; 50(13): 2309-18. doi: 10.1002/cam4.1757 DOI: 10.1016/j.ejca.2014.05.019

[32]Dobes M, Shadbolt B, Khurana VG, et al. A multicenter study of primary brain tumor incidence in Australia (2000-2008). Neuro-oncology 2011; 13(7): 783-90. doi: 10.1093/neuonc/nor052

[33] Zada G, Bond AE, Wang YP, Giannotta SL, Deapen D. Incidence trends in the anatomic location of primary malignant brain tumors in the United States: 1992-2006. World Neurosurgery 2012; 77(3-4): 518-24. DOI:10.1016/j.wneu.2011.05.051

[34] Lehrer S, Green S, Stock RG. Association between number of cell phone contracts and brain tumor incidence in nineteen U.S. States. Journal of Neuro-Oncology 2011; 101(3): 505-7.DOI: https://doi.org/10.1007/s11060-010-0280-z

[35] Cyprus Medical Association, 2017. The Vienna / Austrian Medical Chambers and the Cyprus National Committee on Environment and Children's Health: Nicosia Declaration on Electromagnetic Fields / Radiofrequencies, Nov 2017 Common Position Paper. http://www.cyprus-child-environment.org/images/media/assetfile/HMA%20S_EN_17.pdf

[36] Physician's for Safe Technology https://mdsafetech.org/

[37] The American Academy of Pediatrics (AAP), 2013. (60,000 Pediatricians and Pediatric Surgeons). Letter to Federal Communications Commission (FCC) and the Commissioner of the U.S. Food and Drug Administration (FDA), August 2013. http://apps.fcc.gov/ecfs/document/view?id=7520941318

[38] American Academy of Environmental Medicine (AAEM) Statement on AAEM's position on EMF radiation https://www.aaemonline.org/pdf/emfpositionstatement.pdf
The AAEM Statement on WiFi in Schools https://aaemonline.org/pdf/WiredSchools.pdf

[39] International Scientific Declaration on EHS & MCS, 2015. Brussels http://eceri-institute.org/fichiers/1441982765_Statement_EN_DEFINITIF.pdf

[40] International Society (17 countries) of Doctors for the Environment (ISDE) http://www.isde.org/5G_appeal.pdf

[41] German Doctors Freiburger Appeal, 2002 and 2012. Radio-frequency Radiation Poses a Health Risk. Physicians Demand Overdue Precaution. http://freiburger-appell-2012.info/en/home.php?lang=EN

[42] Swiss Physicians for the Environment (MfE) http://www.aefu.ch/fileadmin/user_upload/aefu-data/b_documents/Aktuell/120316_Brief_NIS.pdf

[43] Irish Doctors Environmental Association (IDEA)

[44] Doctors Call for Protection from Radiofrequency Radiation Exposure: Declaration Submitted to Health Canada https://magdahavas.com/wp-content/uploads/2014/07/medical-doctors-submission-to-health-canada-english-1.pdf

[45] Oceania Scientific Advisory Association http://www.orsaa.org/

[46] Fragopoulou A, et al. "Scientific panel on electromagnetic field health risks: Consensus points, recommendations, and rationales. Scientific Meeting: Seletun, Norway, November 17-21, 2009", Rev Environ Health 2010; 25: 307-317. http://wifiinschools.org.uk/resources/Seletun+2010.pdf

[47] The Porto Alegre Resolution, 2009, ICEMS (International Commission for Electromagnetic Safety).

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http://www.icems.eu/docs/resolutions/Porto_Alegre_Resolution.pdf
[48] Venice Resolution, 2008, ICEMS (International Commission for Electromagnetic Safety).
http://www.icems.eu/docs/Venice_Resolution_0608.pdf
[49] Benevento Resolution, 2006, ICEMS (International Commission for Electromagnetic Safety).
http://www.icems.eu/resolution.htm
[50] Vienna Resolution, 1998, ICEMS (International Commission for Electromagnetic Safety)
http://www.icems.eu/docs/resolutions/Vienna_Resolution_1998.pdf
[51] Salzburg Resolution on Mobile Telecommunication Base Stations, 2000, Austria
https://www.icems.eu/docs/resolutions/Salzburg_res.pdf
[52] Catania Resolution, 2002, Italy
http://www.emrpolicy.org/faq/catania.pdf
[53] London Resolution, 2007. Johansson, Pathophysiology 16 (2009) 247–248
http://www.icems.eu/docs/resolutions/London_res.pdf
[54] Helsinki Appeal 2005
http://www.emrpolicy.org/news/headlines/helsinki_appeal_05.pdf
[55] Scientists call for Protection from Radiofrequency Radiation Exposure: Declaration submitted to Health Canada, 2014
https://magdahavas.com/wp-content/uploads/2014/07/Scientist-Declaration-Canadas-SC6-2014.1-1.pdf
[56] Scientific Committee on Health, Environmental and Emerging Risks SCHEER, Statement on emerging health and environmental issues (2018) Potential effects on wildlife of increases in electromagnetic radiation – categorised as '3' highest priority https://ec.europa.eu/health/sites/health/files/scientific_committees/scheer/docs/scheer_s_002.pdf
[57] Parliamentary Assembly of the Council of Europe, Resolution, 2011. 1815, Final Resolution
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17994
[58] Stewart Report, 2000, Independent Expert Group on Mobile Phones (IEGMP), Chairman Sir William Stewart.
[59] Cyprus Government ban on Wi-Fi in nursery schools and halted in elementary schools
Video from the Government subtitled in English (thanks to EHT)
https://www.youtube.com/watch?time_continue=1&v=-kb_KWHPFk0
https://ehtrust.org/cyprus-issues-decree-banning-wireless-kindergarten-elementary-school-classrooms/
[60] French National Assembly, Jan 29th 2015
http://www.assemblee-nationale.fr/14/ta/ta0468.asp
[61] French National Assembly, March 2013
http://www.assemblee-nationale.fr/14/ta/ta0096.asp
[62] Israeli Ministry of Education recommendations, Aug 2013
http://translate.google.com.au/translate?sl=auto&tl=en&prev=_t&hl=en&ie=UTF-8&u=http://cms.education.gov.il/EducationCMS/Applications/Mankal/EtsMedorim/3/3-6/HoraotKeva/K-2013-3-3-6-11.htm
[63] Swiss Government Information Document, 2012. Swiss Agency for the Environment, Forests and Landscapes, SAEFL. Electrosmog in the environment
https://slt.co/Downloads/News/1081/Electrosmog%20in%20the%20environment.pdf
[64] German Federal Ministry for Radiation Protection recommends against Wi-Fi in schools, 2007.
http://www.icems.eu/docs/deutscher_bundestag.pdf
[65] Russian National Committee on Non-Ionising Radiation Protection RCNIRP, 2012
Recommendations of the Russian National Committee on Non-Ionizing Radiation Protection of the necessity to regulate strictly the use of Wi-Fi in kindergartens and schools
http://www.icems.eu/docs/deutscher_bundestag.pdf
[66] ANSES (French Government Agency for Food, Environmental and Occupational Health), 15th Oct 2013.
Update of the "Radiofrequencies and health" expert appraisal.
http://www.icems.eu/docs/deutscher_bundestag.pdf
[67] Karaboytcheva, M., 2020. Effects of 5G wireless communication on human health. European Parliamentary Research Service PE 646.172 – March 2020
https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/646172/EPRS_BRI(2020)646172_EN.pdf
[68] Yakymenko et al., 2015, Electromagn Biol Med. Jul 7:1-17.
Oxidative mechanisms of biological activity of low-intensity radiofrequency radiation.
https://www.ncbi.nlm.nih.gov/pubmed/26151230
[69] International Commission on Non-Ionizing Radiation Protection (ICNIRP), 1998.
ICNIRP Guidelines for limiting exposure to time-varying electric, magnetic and electromagnetic fields (up to 300GHz) Health Physics 74 (4):494-522.
http://www.icnirp.org/cms/upload/publications/ICNIRPemfgdl.pdf
[70] Ghandi, O., 2019, IEEE Access, vol. 7, pp. 47050-47052, 2019,. Microwave Emissions From Cell Phones Exceed Safety Limits in Europe and the US When Touching the Body https://DOI.org/10.1109/ACCESS.2019.2906017
[71] Phonegate Alert: https://www.phonegatealert.org/en
[72] Hardell, L., 2017. World Health Organization, radiofrequency radiation and health - a hard nut to crack (Review) Int J. Oncology. June 2017, P405-413 https://doi.org/10.3892/ijo.2017.4046

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[73] Hardell, L., Carlberg, M., 2020, Oncology Letters 20:15, 2020 Health risks from radiofrequency radiation, including 5G, should be assessed by experts with no conflicts of interest. https://DOI.org/10.3892/ol.2020.11876
[74] Esra Neufeld and Niels Kuster, 2018. Systematic derivation of safety limits for time-varying 5g radiofrequency on analytical models and thermal dose. Health Phys. 115(6):705–711.
https://www.ncbi.nlm.nih.gov/pubmed/30247338
[75] International Commission on Non Ionising Radiation Protection (ICNIRP), 2020. RF EMF Guidelines 2020
https://www.icnirp.org/en/activities/news/news-article/rf-guidelines-2020-published.html
[76] Gultekin, D., Siegel, P., 2020. Absorption of 5G Radiation in Brain Tissue as a Function of Frequency, Power and Time. IEEE Access. https://doi.org/10.1109/ACCESS.2020.3002183
[77] Melnick R.L., 2018. Critique of the ICNIRP Note of September 4, 2018 Regarding Recent Animal Carcinogenesis Studies
https://ehtrust.org/us-scientist-criticizes-icnirps-refusal-to-reassess-cell-phone-radiation-exposure-guidelines-after-us-national-toxicology-program-studies-show-clear-evidence-of-cancer-in-experimental-animals/
[78] Barnes, F. and Greenebaum, B. (2020), Setting Guidelines for Electromagnetic Exposures and Research Needs. Bioelectromagnetics, 41: 392-397. doi:10.1002/bem.22267
[79] International Guidelines on Non-Ionising Radiation (IGNIR) 2020 https://ignir.org/?page_id=8
[80] Sarah J. Starkey, 2016. Inaccurate official assessment of radiofrequency safety by the Advisory Group on Non-ionising Radiation. Rev Environ Health 2016; 31(4): 493–503
https://www.degruyter.com/downloadpdf/j/reveh.2016.31.issue-4/reveh-2016-0060/reveh-2016-0060.pdf
[81] Starkey S.J., 2018. Official advice on the safety of radiofrequency radiation, risk assessment and adverse effects. Presentation at PHIRE Conference, London, UK.
https://cdn.websiteeditor.net/2479f24c54de4c7598d60987e3d81157/files/uploaded/S._Starkey_Presentation_5th_November_2018.pdf
[82] Morgan et al., 2014. Why children absorb more microwave radiation than adults: The consequences
JMAU 2014; 2 (4): 197 - 204
https://www.sciencedirect.com/science/article/pii/S2213879X14000583
[83] Wiart, J., et al, 2008.Analysis of RF exposure in the head tissues of children and adults. Physics in Medicine and Biology vol 53, No.13, p3681-3695
[84] Christ, A., Gosselin, M-C., Christopoulou, M., et al., 2010. Age-dependent tissue-specific exposure of cell phone users. Phys. Med. Biol. 55:1767–1783.
https://iopscience.iop.org/article/10.1088/0031-9155/55/7/001/pdf
[85] NHS leaflet, 2011. Mobile phones and base stations: Health advice on using mobile phones
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/215711/dh_124899.pdf
[86] Pall, M., 2018. Wi-Fi is an important threat to human health. Environ Res. Jul;164:405-416.
https://www.ncbi.nlm.nih.gov/pubmed/29573716
[87] Rea et al., 1991. Electromagnetic Field Sensitivity. Journal of Bioelectricity, 10(1&2), 241-256.
https://www.tandfonline.com/doi/abs/10.3109/15368379109031410
[88] McCarty et al., 2011. Electromagnetic hypersensitivity: evidence for a novel neurological syndrome. Int J Neurosci. Dec;121(12):670-6.
https://www.ncbi.nlm.nih.gov/pubmed/21793784
[89] Belpomme D, Campagnac C, Irigaray P., 2015. Reliable disease biomarkers characterizing and identifying electrohypersensitivity and multiple chemical sensitivity as two etiopathogenic aspects of a unique pathological disorder. Rev Environ Health. 2015;30(4):251-71. doi:10.1515/reveh-2015-0027.
https://www.ncbi.nlm.nih.gov/pubmed/26613326
[90] Stein, Y., Udasin, I., 2020. Electromagnetic hypersensitivity (EHS, microwave syndrome) – Review of mechanisms. Environmental Research Vol 186, July 2020, 09445.
https://www.sciencedirect.com/science/article/abs/pii/S0013935120303388
[91] Lai, H. 2019. Exposure to Static and Extremely-Low Frequency Electromagnetic Fields and Cellular Free Radicals, Electromagnetic Biology and Medicine, 38:4, 231-248, DOI: 10.1080/15368378.2019.1656645
https://doi.org/10.1080/15368378.2019.1656645
[92] Panagopoulos D et al., 2000. A Mechanism for Action of Oscillating Electric Fields on Cells. Biochemical and Biophysical Research Communications 272, 634–640 (2000)
https://www.sciencedirect.com/science/article/abs/pii/S0006291X00927463
[93] Dimitris J. Panagopoulos, Andreas Karabarbounis and Lukas H. Margaritisa, 2002. Mechanism for action of electromagnetic fields on cells. Biochemical and Biophysical Research Communications 298 (2002) 95–102
https://www.researchgate.net/publication/8626458_Mechanism_of_action_of_electromagnetic_fields_on_cells
[94] Belyaev et al, 2016. EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses. Rev Environ Health. 2016 Sep 1;31(3):363-97.
https://www.ncbi.nlm.nih.gov/pubmed/27454111
[95] Austrian Medical Association, 2012. Guideline of the Austrian Medical Association for diagnosis and treatment of EMF-related health problems and illnesses (EMF Syndrome)
http://www.magdahavas.com/wordpress/wp-content/uploads/2012/06/Austrian-EMF-Guidelines-2012.pdf

[96] Belpomme, D., Irigaray, P., Electrohypersensitivity as a Newly Identified and Characterized Neurologic Pathological Disorder: How to Diagnose, Treat, and Prevent It Int. J. Mol. Sci. 2020, 21(6), 1915; https://doi.org/10.3390/ijms21061915
[97] Jamieson I, Electromagnetic hypersensitivity & human rights commentary to the European Economic and Social Committee
https://www.radiationresearch.org/images/rrt_articles/IAJ_EHS__Human_Rights_0141204.pdf
[98] https://www.5gspaceappeal.org/
[99] Action against 5G https://actionagainst5g.org/
[100] Environmental Health Trust V Federal Communications Commission
https://www.courtlistener.com/docket/47551/environmental-health-trust-v-fcc/
[101] 5G Judicial Review 2020 https://www.crowdjustice.com/case/5g-judicial-review-2020/
[102] CHD v the Federal Communication Commission (FCC)
[103] Kompetenzinitiative: kompetenzinitiative mobile phones and health legal action 2020
[104] Swiss re Institute, 2019. "Swiss Re SONAR New emerging risk insights"
https://ehtrust.org/wp-content/uploads/Swiss-Re-SONAR-Publication-2019-excerpt.pdf
[105] Commission of the European Communities, 2000.
Communication from the Commission on the precautionary principle. Brussels, 2.2.2000, COM(2000) 1 final.
https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2000:0001:FIN:EN:PDF
[106] Nasim I, Kim S. Adverse impacts of 5G downlinks on human body. 2019 SoutheastCon; 2019: IEEE; 2019. p. 1-6..
DOI: 10.1109/SoutheastCon42311.2019.9020454
[107] Nasim I, Kim S. Mitigation of human EMF exposure in downlink of 5G. Annals of Telecommunications 2019; 74(1-2): 45-52 https://doi.org/10.1007/s12243-018-0696-6
[108] Sage, C., 2020. Bioinitiative report update: Disrupted Immune Function from Exposure to Low-Intensity Non-Ionizing Radiation (Radiofrequency Radiation)
https://bioinitiative.org/wp-content/uploads/2020/04/Final-Published-Studies-Reporting-Disrupted-Immune-Function-from-Low-Intensity-Exposure-to-Radiofrequency-Radiation.pdf
[109] Balmori, A., 2014. 'Electrosmog and species conservation' Science of the Total Environment 496 (2014) 314–316
https://www.sciencedirect.com/science/article/pii/S0048969714010912
[110] Bandara, P., Carpenter, D.O., 2018. Planetary electromagnetic pollution: it is time to assess its impact. Lancet. Planet. Health 2 (12). https://doi.org/10.1016/S2542-5196(18)30221-3.
[111] Waldmann-Selsam, C., et al. 2016. Radiofrequency radiation injures trees around mobile phonebase stations Science of the Total Environment 572 (2016) 554–569 DOI: 10.1016/j.scitotenv.2016.08.045
[112] Thielens, A. Exposure of Insects to Radio-Frequency Electromagnetic Fields from 2 to 120 GHz. Sci Rep. 2018 Mar 2;8(1):3924. doi: 10.1038/s41598-018-22271-3.
https://www.ncbi.nlm.nih.gov/pubmed/29500425

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**IN THE HIGH COURT OF JUSTICE**
**QUEEN'S BENCH DIVISION**
**PLANNING COURT**

**CO/3114/2021**

BEFORE THE HONOURABLE MR JUSTICE HOLGATE

**BETWEEN:**

**R (o.a.o. CAROL SPRINGGAY)**

**Claimant**

**- and -**

**BRIGHTON & HOVE CITY COUNCIL**

**Defendant**

**- and -**

**HUTCHISON 3G UK LTD**

**Interested Party**

HIGH COURT OF JUSTICE
- 2 NOV 2021
LONDON
PLANNING COURT

ADMINISTRATIVE COURT OFFICE
R.C.J.

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**CONSENT ORDER**

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**Before**

**sitting in the Planning Court, Queen's Bench Division, High Court of Justice, The Strand, London WC2A 2LL**

**UPON** reading the Statement of Facts and Grounds for judicial review claim and supporting evidence and the Defendant confirming that they will not be defending the claim

**AND UPON** reading the Statement of Reasons justifying the making of this Order as agreed between the parties

**IT IS ORDERED** that:-

1. The application for permission for judicial review is granted;
2. The claim for judicial review is allowed on the basis set out in paragraph 2 of the Statement of Reasons;
3. The Defendant's decision notice of 30 July 2021 granting prior approval under reference BH2021/01639 for the Installation of a 15m Phase 8 Monopole with wraparound cabinet at base and installation of 3no ancillary cabinets on land south of 91 FishersgateTerrace, Portslade is quashed;
4. The Defendant shall pay the Claimant's costs of and incidental to the instant claim to the issue and service of proceedings in the agreed sum of £13,340 VAT inclusive.

ADMINISTRATIVE COURT OFFICE
R.C.J.

Dated this 2nd day of November 2021

**BY THE COURT**

ADMINISTRATIVE COURT OFFICE
R.C.J.

ADMINISTRATIVE COURT OFFICE
R.C.J.

**We the parties consent to an order in the above terms**

Signed: [redacted]

Dated: 6 October 2021

ADMINISTRATIVE COURT OFFICE
R.C.J.

**Harrison Grant, Solicitors for the Claimant**
**115 Castlehaven Road**
**London NW1 8SJ**

Ref: AG
Tel: 020 7267 7407
Email: alicegoodenough@hglaw.co.uk

For and on behalf of the Claimant

Signed: [redacted]

Position: SENIOR SOLICITOR

Dated: 6 October 2021

ADMINISTRATIVE COURT OFFICE
R.C.J.

**Solicitor for the Defendant Council**
**Brighton & Hove City Council**
**Room G101**
**Hove Town Hall,**
**Norton Road,**
**Hove**
**BN3 3BQ**

Ref: Hilary Woodward HKW/EC713473

Tel: 01273291514

Email: hilary.woodward@brighton-hove.gov.uk

For and on behalf of the Defendant

Signed:

Dated:

**Sarah Key**
**Hutchison 3G UK Ltd**
**Star House**
**20 Grenfell Road**
**Maindenhead**
**SL6 1EH**

For and on behalf of the Interested Party

## Statement of Reasons

1. The Claimant has brought judicial review proceedings seeking the quashing of the Defendant's decision notice of 30 July 2021 granting prior approval under reference BH2021/01639 for the Installation of a 15m Phase 8 Monopole with wraproud cabinet at base and installation of 3no ancillary cabinets on land south of 91 Fishersgate Terrace, Portslade.

2. The grounds for judicial review are:

   (i) the Council unlawfully determined that the highway safety implications of the cabinets and the concerns expressed by the Council's highways team were not a relevant consideration;

   (ii) the Council failed to address the health impacts of this particular proposal and to obtain adequate evidence of the assessment of the proximity to the school and the amended proposal; and

   (iii) the Council failed to consider whether the facility could be sited on an existing building or structure, the Interested Party having failed to provide any evidence on that matter.

3. For these reasons the decision was unlawful and should be quashed.

4. The Defendant in its acknowledgment of service has stated that it does not intend to contest the claim and would agree to the decision being quashed.

5. The Interested Party has not responded to the claim.

6. The Defendant's decision notice of 30 July 2021 should therefore be quashed for the reasons set out above.

7. In the light of the above, it is requested that the Court make the Consent Order without the need for attendance by the parties.

[redacted]

ADMINISTRATIVE COURT OFFICE
R.C.J.

2/11/2024

The Rt Hon Caroline Dineage MP
Minister of State (Minister for Digital and Culture)
Department for Digital, Culture, Media & Sport
100 Parliament Street
London
SW1A 2BQ

27 February 2020

Dear Minister,

I am writing to seek clarification from the government on liability for health risks relating to the 5G rollout, in particular the issue of indemnity for public bodies charged with safeguarding and public health. I note the changes to planning law in the National Planning Policy Framework (February 2019).

These changes make it difficult for local authorities to object to applications by the telecoms industry relating to 5G infrastructure.

The following sections are of greatest relevance:
**114. Local planning authorities should not impose a ban on new electronic communications development in certain areas, impose blanket Article 4 directions over a wide area or a wide range of electronic communications development, or insist on minimum distances between new electronic communications development and existing development.**

**116. 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.**

Public Health England endorses these guidelines. Please see the following statement from the Ofcom website:
*"In the UK, Public Health England (PHE) is responsible for providing advice to Government on all aspects of public health, including exposure to radio waves. PHE's position is that exposures to radio waves should comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). ICNIRP is formally recognised by the World Health Organization (WHO). The guidelines developed by ICNIRP cover all frequencies used for mobile telecommunications in the UK, including new 5G services."*

The current government advice from Public Health England is as follows:
"*It is possible that there may be a small increase in overall exposure to radio waves when 5G is added to an existing network or in a new area. However, the overall exposure is expected to remain low relative to guidelines and, as such, there should be no consequences for public health.*"

However, the December 2018 issue of The Lancet stated that "***A recent evaluation of 2266 studies (including in-vitro and in-vivo studies in human, animal, and plant experimental***

***systems and population studies) found that most studies (n=1546, 68·2%) have demonstrated significant biological or health effects associated with exposure to anthropogenic electromagnetic fields****."*

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*."

The above shows that 5G health effects are uninsurable and at the same time recognised by reinsurers as a high impact risk with regard to future litigation. Members of the campaign group Stop 5G Bath have received a letter from PHE's own solicitors, which exempts PHE from all liability in the event of future legal action relating to health effects from 5G if their guidance should turn out to be incorrect or misleading. In this letter they state:

***"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."*

(Quote from a letter from DLA Piper, UK solicitors for PHE, to Leigh Day solicitors for Karen Churchill et al., dated 8th August 2019 - hard copy available upon request.) "PHE's lawyers advise public bodies to balance PHE's guidance with evidence from other sources i.e. not only from ICNIRP. This contradicts the government's own planning regulations which require local authorities to adhere strictly to ICNIRP's guidelines (see above). This advice of course applies to other bodies responsible for health and safety, including multi-academy trusts who 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, please could you confirm how the government plans to indemnify local authorities and other public bodies against future property, injury and health claims from members of the public relating to 5G?"

I look forward to your response.

Yours sincerely,
Wera Hobhouse
MP for Bath

**How could personal liability arise for a councillor?**

You have been provided with information prepared by solicitor Jessica Learmond-Criqui about the harmful effects of electromagnetic radiation ("EMR") emitted from, among other things, mobile masts, antennae, small cells and the like. You are, therefore, aware of the harmful effects of EMR to your residents which could result in death to those most susceptible to the effects.

There are essentially two ways in which personal liability to you could arise if you disregard and do not act on this:

(a) You sit on committees and one of them has been:

(i) planning matters permitting masts and antennae to be approved; or
(ii) making decisions about health, safety and wellbeing matters;

(b) misfeasance or misconduct in public office which is a criminal offence.

Before commenting briefly on these, it may be helpful to note that whereas normally councillors would be indemnified by the local authority in relation to their acts, the following are relevant circumstances where an indemnity cannot be provided to a member:

- **Criminal acts (of which misfeasance in public office is one)**

- **Recklessness.**

A. Sitting on committees

1. All councillors sit on committees and you may have been involved with planning or health committees in your time as a councillor. Potential liabilities from knowledge of harm to health which are ignored include:

   (a) Prosecution for gross negligence manslaughter;
   (b) Corporate manslaughter.

2. These are explained in brief below.

3. The effect of electromagnetic radiation can interact with pacemakers or the electricity signals of the heart resulting in death. The long term exposure to EMR can result in chronic conditions leading to death.

4. There are essentially three drivers for effective health and safety management: moral imperative, business case and legal compliance. This note deals with legal compliance issues.

5. You have been informed that the advice on the safety of 5G from Public Health England (which incidentally is being disbanded next spring) and other government departments is misleading. You may think that you have to follow this misleading advice. However, this is not Public Health England's understanding. In a response to a letter from solicitors DLA Piper, Public Health England's stance is:

*"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."*

6. It is for the local council to come to its own decision about matters put before it and to consider the health issues itself. It cannot avoid liability by saying that it followed PHE's guidance if that guidance is demonstrably shown to be misleading.

7. The Local Government Association counsels the following[1]:

*"All councillors should challenge officers and fellow elected members on health and safety decisions if they appear out of proportion...., poor health and safety decisions will undermine the community's confidence in the ability of officers and councillors to effectively manage the real risks and their ability to effectively secure public safety. Sensible risk management on the other hand will enhance the council's reputation for pragmatic decision-making and protecting their community.*

8. Your council has obligations to safeguard the health and safety of its residents under the following although there may be other duties elsewhere (bold is my highlight):

   (a) 2B of the National Health Service Act 2006:

**2B Functions of local authorities and Secretary of State as to improvement of public health**

(1) Each local authority must take such steps as it considers appropriate **for improving the health of the people in its area**.

(c) Heath and Safety at Work Act 1974

**3 General duties of employers and self-employed to persons other than their employees.**

(1) It shall be the duty of every employer to conduct his undertaking in such a way

as to ensure, so far as is reasonably practicable, **that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety**.

9. It must also promote the wellbeing of its residents under:

(a) Care Act 2014

**Promoting individual well-being**

(1) The general duty of a local authority, in exercising a function under this Part in the case of an individual, **is to promote that individual's well-being.**

(2) "Well-being", in relation to an individual, means that individual's well-being so far as relating to any of the following—

(a) personal dignity (including treatment of the individual with respect);
(b) **physical and mental health and emotional well-being**;

10. While you are in the role of sitting on committees and making decisions on policy and planning, you are conducting the business of the council.

11. You will be familiar with your responsibilities but it may be helpful to set out the following extracts[2]:

*"Responsibilities need to be understood*

*The principal duty holder under the Health and Safety at Work etc Act is the employer. However, the council through the leader and cabinet will set the direction for health and safety, through its strategy and policy, and allocate resources to make the strategy a reality."*

At pg 18 - *"There are serious consequences for both organisations and individuals when health and safety management falls below the required standard. Breaches of the Health and Safety at Work etc Act 1974 and associated regulations and noncompliance with enforcement notices can result in substantial fines and imprisonment. Cleary, the impact of trial and sentence on an individual, including elected members, would be enormous. Furthermore, where senior managers have failed to the extent that it amounts to gross breach of the duty of care and someone dies, the council could be prosecuted for corporate manslaughter. The fine upon conviction could run into millions of pounds together with other sanctions available to the court. Provisions exist for health and safety and corporate manslaughter charges to be tried in parallel. If the conduct of an individual employee or elected member amounted to gross negligence and caused a persons death, then they individually could be prosecuted for gross negligence manslaughter. The maximum punishment is life in prison."*

“Examples of prosecutions

• A city council was fined £125,000 plus £40,000 costs after a refuse lorry killed an 11-year-old girl.

• A county borough council was fined £60,000 plus £22,000 costs after a man died in a care home. Poor maintenance and training was blamed.

• A metropolitan borough council was fined £400,000 and over £30,000 costs following a death.”

Pg 19 – “A landmark case – Barrow Borough Council

*In 2002, an outbreak of legionnaires’ disease at an arts and leisure centre run by Barrow Borough Council led to the deaths of seven people. Nearly 200 people were infected. A case against the council for corporate manslaughter was dismissed under previous law. The council pleaded guilty under the Health and Safety at Work Act.*

*Mr Justice Burnton said that he would normally have imposed a fine of more than £1 million, but he was reluctant as it would have had a direct impact on taxpayers and service provision. Even so, he fined the council £125,000 plus £90,000 costs.*

*“One of the purposes of a financial penalty is to demonstrate to those council taxpayers, to the electorate and to councillors the gravity of matters such as this”. In his summing up of the case, he stated: “The failings were not only at the lowest levels […] those failings went all the way, I am afraid to say, to the top of the council in terms of its serving officers. It is likely they went beyond the officers to the councillors, because there is no evidence that there was proper attention given to health and safety within the borough.”*

Barrow Council leader Bill Joughin said: “*We had policies written on paper but [...] it was not part of the culture of the organisation, and there was no chain of command. We ticked all the boxes, but there was not a procedure which ensured it was all adhered to.”*

12. Electromagnetic radiation is the new legionnaires or asbestos scandal. You cannot see it or smell it but the effects are acutely felt by those who are more susceptible to harm from it.

13. From the above, you can see that by failing to take note of the health harms, set out in the information sent to you, caused to residents from the way the Council interprets the National Planning Policy Framework (“NPPF”) when giving planning permission to masts and antennae, that it is failing in its duties and if you sit on the planning committee, you are involved in that breach of duty.

14. The NPPF states that a local authority cannot “set health safeguards different from” the International Commission guidelines when it is considering a planning application for a mast etc. Many councils have interpreted that to mean that they cannot take health concerns into account in relation to considering whether these antennae are permitted by them to be placed around the area.

15. But the council’s other planning policies have positive requirements to take account of health and wellbeing which are being ignores. And, given the positive statutory duties to safeguard and to promote the health and well being of residents as set out above there is a conflict with the NPPF and where there is a conflict, the health considerations must take precedence.

16. Given the demonstrable serious deleterious effect on the health of many residents with the roll out of 5G, it is negligent and reckless of the council and of councillors to fail to address this situation immediately knowing as you now do that that action is harmful to health.

17. That failure may lead to death of residents and to personal liability of councillors involved in committees setting policy and making decisions relating to these matters not simply in the common law of negligence but also potentially for corporate manslaughter.

18. Under the Corporate Manslaughter and Corporate Homicide Act 2007, an offence will be committed where failings by an organisation’s senior management are a substantial element in any gross breach of the duty of care owed to the organisation’s employees or members of the public, which results in death. https://www.hse.gov.uk/pubns/indg417.pdf

19. Do see the extract below [3]:

**What do companies and organisations need to do to comply?**
*Companies and organisations that take their obligations under health and safety law seriously are not likely to be in breach of the new provisions. Nonetheless, companies and organisations should keep their health and safety management systems under review, in particular, the way in which their activities are managed or organised by senior management.*

**Where does health and safety legislation come in?**

*Under the Act, health and safety legislation means "any statutory provision dealing with health and safety matters" so it will include transport (road, rail, river, sea, air) food safety and workplace safety as enforced by HSE and local authorities.*

*Juries will be required to consider breaches of health and safety legislation in*

*determining liability of companies and other corporate bodies for corporate manslaughter/homicide. Juries may also consider whether a company or organisation has taken account of any appropriate health and safety guidance and the extent to which the evidence shows that there were attitudes, policies, systems or accepted practices within the organisation that were likely to have encouraged any such serious management failure or have produced tolerance of it.*

20. Even if you are not concerned for yourself, you may be concerned for your local authority that they have put themselves in a position of potential liability.

21. You may also be interested to see the guidance as to civil and criminal liability for councillors of breach of responsibilities would apply also to breaches of duties relating to health set out above[4].

22. The health legislation must also be interpreted in accordance with the Human Rights Act 1998. Sections 1, 3 and 8 of the HRA need particular consideration. It is unlawful for a public body to act in a way that is incompatible with a Convention right.

**Misfeasance or misconduct in public office**

23. I have set out extracts of the criminal offence of misconduct in public office which has been taken from the Crown Prosecution Service: https://www.cps.gov.uk/legal-guidance/misconduct-public-office

24. Misconduct that breaches a code of conduct could also constitute the common law criminal offence of misconduct in a public office, which covers a wide range of conduct. It is a very serious, indictable-only offence carrying a maximum sentence of life imprisonment. The offence is reserved for cases of serious misconduct or deliberate failure to perform a duty that is likely to injure the public interest.

25. The elements of this offence were restated in: *Attorney-General's Reference (No 3 of 2003) [2004] EWCA Crim 868* as:

- A public officer, acting in that capacity.
- Wilfully neglecting to perform their duty (or wilfully misconducting themselves).
- To such a degree as to amount to an abuse of the public's trust in the office holder.
- Without reasonable excuse or justification.

26. To establish wilful neglect or misconduct by a member, there has to be:

- an awareness of the duty to act; or
- subjective recklessness about the existence of the duty.

27. As a councillor, you are a public officer. For the reasons set out in Section A, you are neglecting to perform your health duties to such a degree that it amounts to an abuse of the public's trust in you. Given that you have now been provided with information which demonstrates that the government's advice relating to radiation from mobile service equipment in particular is misleading, you have no reasonable excuse or justification for such neglect.

**Conclusion**

28. It is clearly blameworthy to take an obvious and significant risk of causing injury to another such as harm caused by EMR.

29. Apart from anything else, your primary role is to represent your ward or division and the people who live in it. You provide a bridge between the community and the council. You are an advocate for your local residents. They are telling you that they are being made ill from electromagnetic radiation and you are ignoring them.

30. Inspiring local communities, making a real difference and changing people's lives to help create a better future for the people and places you represent requires ambitious, bold leadership. Effective political leadership is the building block of a healthy and vibrant democracy[5]. In relation to health matters raised, I suggest that that leadership is lacking.

31. Preventing illness and empowering people to stay well requires action from all sections of the community. The broader determinants of health – people's local environment, housing, transport, employment and social interactions – can be significantly influenced by how councils deliver their core roles and functions.

32. The main body of the council as represented by a meeting of all members can set overriding policies, or review any delegated decisions. It is possible for the full council to make a decision which clarifies its role in safeguarding the health and safety of its residents.

33. Paragraph 10 of the explanatory notes to the Localism Act 2011 says that:

Section 1 provides a general power of competence for local authorities. It gives local authorities the same power to act that an individual generally has and provides that the power may be used in innovative ways, that is, in doing things that are unlike anything

that a local authority - or any other public body - has done before, or may currently do. The section defines the meaning of an 'individual' so as to avoid referring to the reduced powers exercised by for example a child. Subsections (4), (5) and (6) further define the extent of the power. Where the authority can do something under the power, the starting point is that there are to be no limits as to how the power can be exercised.

34. You, as the councillor, can take the initiative to stop the harmful effects of EMR in your community. Doing so will comply with the Nolan principles of conduct in public office and your own council's code of conduct.

35. Taking a sensible approach to health and safety is important. This is all about practical steps to protect people from real harm and suffering; not creating bureaucratic steps to cover your back and avoid responsibility. If you believe some of the stories you hear, health and safety is all about stopping any activity that might possibly lead to harm. This is not what the law requires or what your council should be aiming for. The Health and Safety Executive (HSE) advocates seeking a balance between the unachievable aim of absolute safety and the kind of poor management of risk that damages lives and the economy[6].

36. As a councillor you can play an important role in promoting a sensible approach to health and safety. Failure to do so may open you to personal liability as set out above.

4.9.20

**Schedule 1**
**Misfeasance in public office**

**Definition of the Offence**

The elements of the offence are summarised in *Attorney General's Reference No 3 of 2003* [2004] EWCA Crim 868.

The offence is committed when:

· a public officer acting as such;

· wilfully neglects to perform his duty and/or wilfully misconducts himself;

· to such a degree as to amount to an abuse of the public's trust in the office holder;
· without reasonable excuse or justification.

· Nature of the neglect or misconduct

The wilful neglect or misconduct can be the result of a positive act or a failure to act. In the case of ***R v Dytham*** [1979] QB 722, for example, a police officer was held to have been correctly convicted when he made no move to intervene during a disturbance in which a man was kicked to death.

There must also be an element of knowledge or at least recklessness about the way in which the duty is carried out or neglected. The test is a subjective one and the public officer must be aware that his/her behaviour is capable of being misconduct.

· **Meaning of 'wilful' (also see 'Breach of Duty')**

In *Attorney General's Reference No 3 of 2003* the court approved the definition of 'wilful' as 'deliberately doing something which is wrong knowing it to be wrong or with reckless indifference as to whether it is wrong or not'.

In *R v G* [2003] UK HL 50 Lord Bingham said with respect to inadvertence:

*"It is clearly blameworthy to take an obvious and significant risk of causing injury to another. But it is not clearly blameworthy to do something involving a risk of injury to another … if one genuinely does not perceive the risk. Such a person may fairly be accused of stupidity or lack of imagination, but neither of those failings should expose him to conviction of serious crime or the risk of punishment."*

Lord Steyn added:

*"… the stronger the objective indications of risk, the more difficult it will be for defendants to repel the conclusion that they must have known."* (*R v G* [2003] UK HL 50)

· **Abuse of the public's trust**

Public officers carry out their duties for the benefit of the public as a whole. If they neglect or misconduct themselves in the course of those duties this may lead to a breach or abuse of the public's trust.

· **Seriousness of the neglect or misconduct**

The behaviour must be serious enough to amount to an abuse of the public's trust in the office holder. In *R v Dytham*, Lord Widgery said that the element of culpability:

*"… must be of such a degree that the misconduct impugned is calculated to injure the public interest so as to call for condemnation and punishment."*
In *Attorney General's Reference No 3 of 2003* the court said that the misconduct must amount to:

*“… an affront to the standing of the public office held. The threshold is a high one requiring conduct so far below acceptable standards as to amount to an abuse of the public's trust in the office holder.”*

In *Chapman* [2015] 2 Cr App R 10, the Lord Chief Justice stated that the judge in summing up had to make clear that the necessary conduct was not simply a breach of duty or a breach of trust:

*“It is not in our view sufficient simply to tell the jury that the conduct must be so serious as to amount to an abuse of the public’s trust in the office holder, as such a direction gives them no assistance on how to determine that level of seriousness. There are, we consider, two ways that the jury might be assisted in determining whether the misconduct is so serious. The first is to refer the jury to the need for them to reach a judgment that the misconduct is worthy of condemnation and punishment. The second is to refer them to the requirement that the misconduct must be judged by them as having the effect of harming the public interest.”*

· **Consequences**

Although the offence is not a ‘results crime’, the likely consequences of any wilful neglect or misconduct are relevant when deciding whether the conduct falls below the standard expected:

*“It will normally be necessary to consider the likely consequences of the breach in deciding whether the conduct falls so far below the standard of conduct to be expected of the officer as to constitute the offence. The conduct cannot be considered in a vacuum: the consequences likely to follow from it, viewed subjectively … will often influence the decision as to whether the conduct amounted to an abuse of the public's trust in the officer. (Attorney General's Reference No 3 of 2003).”*

Whilst there is no need to prove any particular consequences flowing from the misconduct, it must be proved that the defendant was reckless not just as to the legality of his behaviour, but also as to its likely consequences.

The consequences must be likely ones, as viewed subjectively by the defendant. Although the authorities do not say so, likely can probably be taken to mean at the very least 'reasonably foreseeable'; it is arguable that likely may mean 'probable' in this context.

· **Motive**

In order to establish whether the behaviour is sufficiently serious to amount to the offence, the officer's motive is also relevant:
*“… the question has always been, not whether the act done might, upon full and mature investigation, be found strictly right, but from what motive it had proceeded;*

*whether from a dishonest, oppressive, or corrupt motive, under which description, fear and favour may generally be included, or from mistake or error …*

*"To punish as a criminal any person who, in the gratuitous exercise of a public trust, may have fallen into error or mistake belongs only to the despotic ruler of an enslaved people, and is wholly abhorrent from the jurisprudence of this kingdom."* (*R v Borron* [1820] 3 B&Ald 432: Abbott CJ, at page 434.)

At its highest the motive may be malice or bad faith but they are not prerequisites. Reckless indifference would be sufficient.

**Without reasonable excuse or justification**

It is not necessary for the prosecution to prove the absence of a reasonable excuse or justification, although the nature of the prosecution evidence should in practice negate any such element.;

The defendant may advance evidence of a reasonable excuse or justification. It is for the jury to determine whether the evidence reveals the necessary culpability.

**Level of misconduct required**

The offence is, in essence, one of abuse of the power or responsibilities of the office held. Misconduct in public office should be used for serious examples of misconduct when there is no appropriate statutory offence that would adequately describe the nature of the misconduct or give the court adequate sentencing powers.

The third element of the definition of the offence provides an important test when deciding whether to proceed with an offence of misconduct in public office. Unless the misconduct in question amounts to such an abuse of trust, a prosecution for misconduct in public office should not be considered.

The culpability '… must be of such a degree that the misconduct impugned is calculated to injure the public interest so as to call for condemnation and punishment' (*R v Dytham 1979* QB 722).

The fact that a public officer has acted in a way that is in breach of his or her duties, or which might expose him/her to disciplinary proceedings, is not in itself enough to constitute the offence.

Examples of behaviour that have in the past fallen within the offence include:

- wilful excesses of official authority;
- 'malicious' exercises of official authority;

· **wilful neglect of a public duty;**

· intentional infliction of bodily harm, imprisonment, or other injury upon a person;

· frauds and deceits.

**Breaches of duty**

Some of the most difficult cases involve breaches of public duty that do not involve dishonesty or corruption.
In all cases involving breach of duty, the following matters should be considered:

Was there a breach of a duty owed to the public (not merely an employment duty or a general duty of care)?

· Was the breach more than merely negligent or attributable to incompetence or a mistake (even a serious one)?

· Regard must be had to motive.

In considering whether the neglect or misconduct was wilful, the following issues should be addressed:

· Did the defendant have a subjective awareness of a duty to act or subjective recklessness as to the existence of a duty?

· Did the defendant have a subjective awareness that the action or omission might be unlawful?

· Did the defendant have a subjective awareness of the likely consequences of the action or omission?

· Did the officer realise (subjective test) that there was a risk not only that his or her conduct was unlawful but also a risk that the consequences of that behaviour would occur?

· Were those consequences 'likely' as viewed subjectively by the defendant?

· Did the officer realise that those consequences were 'likely' and yet went on to take the risk?

Best Regards,

Jessica

[1] https://www.local.gov.uk/sites/default/files/documents/health-and-safety-council-be3.pdf at pg 21

[2] https://www.local.gov.uk/sites/default/files/documents/health-and-safety-council-be3.pdf at pg 11

[3] https://www.hse.gov.uk/corpmanslaughter/faqs.htm#hs

[4] https://onthewight.com/councils-legal-present-justification-for-criminal-liability-claim-over-budget/

[5] https://local.gov.uk/sites/default/files/documents/11.101%20Councillors%27%20Guide%202018_v10_WEB.pdf

[6] https://www.local.gov.uk/sites/default/files/documents/health-and-safety-council-be3.pdf