

HOW CLOSE IS TOO CLOSE - CHELTENHAM CASE REVEALS LEGAL GAPS IN 5G REGULATION

I am writing to you about the regulation of exposure to wireless radiation and how the associated health risks are assessed—particularly in planning decisions. A recent court case against Cheltenham Borough Council (CBC)¹ has confirmed that lawful obligations extend beyond simply accepting the ICNIRP certificate. The court made clear that **risks to individuals with metal or medical implants—such as pacemakers, clips, plates, and shunts—are not assessed by the ICNIRP certification process**, and that these risks must be taken into account by local planning authorities when deciding where masts are sited. These concerns were recently raised in a Swansea Council meeting, where councillors requested a pause on the 5G rollout pending further investigation.

Judge Jarman stated at paragraph 46 of his ruling:

“The issue of medical implants was not raised in respect of the residences closest to the proposed equipment. If it had been so raised, then it may well have been a factor in a decision to re-site the equipment.”

That passage was not overturned on appeal. On the contrary, the higher court confirmed that **risks to those with implants represent a separate consideration beyond reliance on ICNIRP**, and may influence mast siting where properly raised. **The Council claimed it was prohibited from considering health impacts**, but the Court made clear that this position was incorrect.

The longstanding mantra—*“we cannot consider health”*—can no longer be relied upon by any planning authority.

When you consider how common fillings, hip replacements, pacemakers, hearing aids, and surgical clips have become, it’s clear that a significant proportion of the public is potentially affected. This makes the court’s ruling highly significant for local authorities.

The question now is not *whether* health effects on those with metal or medical implants should be taken into account, but **when** they must be—and **how** those risks are to be assessed.

These concerns have been highlighted at a recent Swansea Council Meeting whereby Councillors have requested for 5G to be investigated prior to any further advancement of the roll-out.

1 <https://www.casemine.com/judgement/uk/67d3242e8e5e96188bafa060>

Importantly: how close is too close?

Judge Jarman's ruling suggests that **17 metres** may be too close in some cases. He indicated that had one resident—who had metal clips in her bowel—raised that fact in her objection, he may have quashed the mast approval entirely.

That kind of **site-specific risk assessment**—weighing how close is too close for someone with metal or medical implants—**rightly falls to the planning authority**, under the obligations set out in the European Electronic Communications Code (EECC).

As Recital 106 of the EECC states:

“Member States should take appropriate measures to ensure that public health is protected from electromagnetic fields, particularly by ensuring compliance with existing exposure limits and providing transparent information to the public. Furthermore, risks should be reconciled through objective, science-based assessments to ensure safety in public and private spaces.”

Specifically Judge Jarman had overlooked the European Electronic Communications Code (EECC) risk reconciliation obligations unlike the Court of Appeal Judge who confirmed the EECC is part of the regulatory framework.

Judge Andrews p 15 *‘THE LEGAL FRAMEWORK IN OUTLINE 15. Directive EU 2018/1972 of the European Parliament and of the Council, (which is part of EU retained law since the UK withdrew from the European Union) established the European Electronic Communications Code. The Directive contains in Annex 1 a long list of conditions which may be attached to general authorisations for electronic communications networks. They include “measures for the protection of public health against electromagnetic fields caused by electronic communications networks in accordance with Union law, taking utmost account of Recommendation 1999/519/EC”.*

Please can you confirm how this Council intends to reconcile the risks to individuals with metal and medical implants when considering mast applications going forward?

Will you be seeking an official risk assessment from central government to support this?

In a recent letter, UKHSA confirmed that there should be no risk to individuals with metal implants—so long as they remain outside the public exclusion zones. However, they did not

provide any detail about **where those exclusion zones are**, or how they vary between different types of 5G masts.

The CBC case included a technical document from MBNL which explains how public exclusion zones are calculated using a three-step ‘fix-it’ process. If the initial mast design creates a radiation zone that penetrates into public areas, the mast’s power is reduced during the design phase to avoid that outcome. According to the document, for 5G masts, exclusion zones typically range from **25 to 50 metres horizontally**, with a **vertical drop of 4 to 9 metres** from the antenna head. For 15-metre masts, depending on the ‘fixit’ the zone can sometimes extend into the **first floors of nearby houses and buildings**. The certification process is meant to ensure this doesn’t happen—but without exclusion zone diagrams being provided, there is no way to verify that it hasn’t. Mistakes can be made, and LPA decisions under the NPPF must be evidence-based.

The figures above are deduced from that technical document—they are estimates, not published site-specific data. This raises a basic but crucial question: **where exactly is the exclusion zone** for each mast? The public deserves to know, but more importantly, **given that the courts have confirmed a legal obligation to account separately for people with metal or medical implants**, and that **UKHSA has stated those individuals must not enter ICNIRP public exclusion zones**, it is no longer acceptable for this information to be withheld. **Local planning authorities need access to verified exclusion zone data to make lawful, evidence-based decisions.**

Please can this Council ensure that **public exclusion zones are published on the planning portal** for all existing and proposed masts within its remit.

Please can you confirm that exclusion zone diagrams will be included with all future planning applications, so that **the required risk assessment for those with metal and medical implants** can be properly carried out in accordance with legal obligations.

The microwave hearing exposure limit remains part of Recommendation 1999/519/EC, which the courts have confirmed must be given “utmost account” in planning decisions. That limit was originally set within the ICNIRP 1998 guidelines, which identified sensations such as clicking or popping in the head as a distinct biological effect. The effect is acknowledged in the ICNIRP 2020 principles statement as sometimes leading to ill-health if they persist (ICNIRP 2020 Principles). This

further supports the case for ensuring that this specific auditory exposure limit is actively applied in planning decisions.

There have already been **breaches of this lower microwave hearing limit** recorded in the UK, as revealed by data in **Ofcom's online 5G exposure surveys**. However, these breaches are **not formally acknowledged** in Ofcom's reports, because the relevant exposure units are not translated or highlighted.

Please ensure that **this lower microwave hearing limit is taken into account in planning decisions on 5G masts**, and that the Council applies its legal power to set a **health condition under EECC Annex I.3(b)** where there is reason to believe the limit may be breached.

Please see: [Appendix 2.4 – EECC Submission \(SafeTech International\)](#)

This limit is explicitly included within **Recommendation 1999/519/EC**, and as such, **remains a lawful and relevant consideration in planning decisions**—particularly where there is potential impact on auditory health or on residents with known vulnerabilities.

Whether microwave hearing is directly related to tinnitus remains unclear, but **increasing numbers of residents living near 5G masts are reporting symptoms consistent with both**. Tinnitus itself is a **growing public health concern**, and its rising prevalence strengthens the argument for precaution and proper assessment of auditory effects when siting wireless infrastructure.

More broadly, how will the Council protect residents from microwave hearing effects—particularly those most at risk?

The **Cheltenham case has demonstrated that the government's "ICNIRP-only" approach is no longer legally defensible**—at least where the health impacts on individuals with metal or medical implants are concerned. The Court made clear that these risks must be considered separately, and cannot be dismissed solely on the basis of ICNIRP certification.

Now is the time for this Council to **review how risks from wireless radiation exposure—particularly from 5G masts sited close to homes, schools, and hospitals—can be properly mitigated and responsibly managed**. The legal context has shifted, and local authorities now have both the mandate and the opportunity to take action in the public interest

At a minimum, the Council must ensure transparency regarding public exclusion zones. This is an essential first step toward lawful planning and public protection. Without it, regulatory gaps—and health risks—will persist.

Yours sincerely,