The 5G Cardin Case in Context

Where — and how — are the risks associated with telecommunications infrastructure actually assessed?

Centrally — by Government and public health bodies?
Locally — through the planning system?
Or across both?

Answers to this question have been actively sought — through planning processes, legal challenges, and direct engagement with Government and Parliament.

What has emerged is not clarity, but **persistent contradiction and unresolved confusion** about where responsibility lies, and how risk is to be assessed in practice.

- Government relies on exposure guidelines issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), "adopted" within the National Planning Policy Framework as the basis for assessing compliance. The Framework states that **"local planning authorities must determine applications on planning grounds only… [and] should not… set health safeguards different from the International Commission guidelines for public exposure."**
- Planning authorities determine siting decisions
- Public health bodies provide general advice

Within this structure, risk is acknowledged, but not consistently assessed through any clearly defined or transparent process.

A large body of UK 5G campaigners are not outright opposing the technology as such but they are addressing these questions.

- **Transparency** — can the underlying evidence actually be seen and examined?
- **Accountability** — who is responsible for assessing it?
- **Accuracy** — is evidence of risk accurately reflected in planning decisions, court decisions, and public health advice?

How the current system operates - *ICNIRP certification as evidence of compliance*

The National Planning Policy Framework requires that applications are supported by:

> "a statement that self-certifies that… International Commission guidelines will be met."

In practice, this is commonly referred to as an ICNIRP certificate.

Its function within the application process is to provide evidence of safety.

The statement of compliance is not accompanied, as a matter of course, by the underlying technical calculations on which it is based, including the definition and extent of any public exclusion zones.

Where it is provided, there is no defined requirement within the framework for how it is to be examined, or how proximity to residential buildings, schools, or other sensitive locations is to be evaluated.

PAUL CARDIN v THE INFORMATION COMMISSIONER

Transparency, accuracy and accountability of certification

Paul Cardin identified that a certificate associated with a telecommunications planning application was issued in the name of Three UK Limited, a company dissolved in October 2015. On the basis of evidence indicating that this was not an isolated issue — with over one hundred such certificates appearing across planning applications nationally — he challenged his local authority in Kingston-upon-Thames.

He requested, under the Environmental Information Regulations 2004, the number of such certificates and copies of them.

The Council refused to provide the number on the basis that this would require searching across multiple planning records, and refused to provide copies on the basis that the information was not held. That refusal was challenged through the Information Commissioner and then appealed to the First-tier Tribunal (Information Rights).

The Tribunal found (3 April 2026) that the certificates are held within planning records and that the decision not to provide them must be reconsidered, but that the Council is not required to identify or count them.

Under the Environmental Information Regulations 2004, the Tribunal does not have jurisdiction to determine the validity, reliability or legal effect of that material. The issue of whether the certificates are reliable as evidence of safety was therefore not within the remit of the Tribunal.

This was an information case: the Tribunal was deciding what must be disclosed, not whether the certificates themselves are valid.

Cardin argued that invalid certificates “plunge the public into danger”. It is clearly important that certificates are accurate — and the scale of the issue has caused understandable alarm.

But the safety question goes further. It is whether the certificate, as evidence of safety, is being relied upon in a way that is meaningful and reliable in practice.

Planning decisions sometimes state that exposure levels are only a small fraction of ICNIRP limits — for example, 1–2% — and conclude that there is nothing to assess.

But if that is the case, why is a certificate of compliance required at all, given that compliance depends on distance from the mast?

The certificate is based on defining a zone within which those limits may be exceeded. That zone represents the point at which risk arises — and it is that proximity which should be considered in practice.

Public Exclusion Zones (PEZ)

The areas identified by the application as potentially exceeding ICNIRP guideline limits remain unknown to planning officers and the public.

There is no requirement in the GPDO or the National Planning Policy Framework for this information to be provided with a planning application.

Residents first have to know it exists in order to ask for it.

Planning officers then have to be willing to request it.

And the operator has to be willing to provide it.

In practice, this breaks down at each stage: sometimes it is asked for, sometimes it is not; sometimes it is provided, sometimes it is not.

Where it is provided, it may show - and in some cases has shown - that exclusion zones extend into nearby buildings. In some cases there is clearly no issue, but in others the margins are tight, and small differences in calculation or layout determine whether zones reach into accessible areas. In those cases, accuracy is critical.

Transparency matters here. So does accuracy.

Without clear disclosure and proper assessment, neither planners nor the public can be confident that the certificate — and the process behind it — has been properly carried out.

The following examples demonstrate the inconsistency, one could call it chaos.

Bath / Larkhall and Radstock

In **Larkhall, Bath**, a mast was proposed on sport club grounds adjacent to the football pitch.

Two councillors, **Kevin Guy** and **Sarah Warren**, and the local MP, **Wera Hobhouse,** filed objections on health and environmental grounds, in essence taking a precautionary view that without exclusion zones and considering peer reviewed science they had considered that there was insufficient evidence of safety to proceed.

Kevin Guy, who later became Leader of the Council, spoke specifically about the missing exclusion zones at the planning meeting.

The application was refused, but not on health grounds, and the decision attracted hostile media coverage in which all three were publicly criticised for having objected on those grounds, with their position dismissed in terms such as “5G cranks”.

A subsequent application for a mast on the same football ground in Larkhall was approved by Bath without the PEZ being obtained.

On a subsequent application at **Radstock** (April 2021), the exclusion zone diagrams were provided to the Bath case officer, presumably after the previous presentations on that matter.
The diagrams revealed that a residential property which in reality was entirely within an area labelled “maximum 8 hours” was missing from the diagram.

The issue was not identified or addressed by the Bath case officer, even though Radstock parish councillors visited the site, confirmed the discrepancy, and pressed Bath and North East Somerset Council to rectify it. They were appalled when no action was taken.

The resident independently researched who had signed the certificate, traced the individual, and contacted him to request that the application be withdrawn. Instead, the operator reduced the size of the exclusion zone by recalculating the PEZ for 4G operation, despite the proposal having been presented and approved on the basis of 5G deployment.

Ofcom, as the national regulator responsible for ensuring that certificates are held on file, confirmed that it does not intervene at the planning stage, offering only to measure exposures once the upgrade was complete — a position that provided little reassurance to the resident.

Brighton

In **Brighton**, a few months later in November 2021, a new 5G mast adjacent to a school was first proposed at one height and then reduced in height, but no PEZ were provided for either proposal and no updated ICNIRP certificate was issued for the lower mast.

Residents used technical data and an example PEZ to estimate the exclusion zones, indicating that they likely extended into the school property, and challenged the approval by way of judicial review proceedings.

The Council defended the claim at a cost of approximately £13,000 before conceding prior to a hearing that:

“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.”

Thomas v Cheltenham Judicial Review

In Thomas v Cheltenham Borough Council, a telecommunications mast was approved 17 metres from a five-storey residential building.

No public exposure zones (PEZ) were provided with the application, despite being requested, and the decision was challenged by way of judicial review, where operator material before the Court indicated that the exclusion zones would

penetrate the apartments, but the Court held that it was lawful for the planning authority not to obtain and examine the PEZ.

This differs from Brighton, where the absence of PEZ and any updated ICNIRP certificate formed part of the Council's concession that the proposal had not been adequately assessed.

The Thomas judgment did not address the obligations arising under the European Electronic Communications Code (EECC), despite those arguments being advanced.

However, the Court did recognise that risks associated with metal implants fall outside the scope of ICNIRP guidance, and that the Council acted unlawfully in failing to consider that specific risk.

In assessing that issue, the Court concluded that if a resident with metal clips in her bowel living in the closest apartment block, ie 17m away had identified that condition in an objection, the risk would have been sufficiently significant to require reconsideration of the siting of the mast. She, like many members of the public, did not know that having metal meant the risk to her fell outside the ICNIRP guideline exposure levels and this gives rise to the question as to why it falls on the public to report the risk.

Cheltenham Borough Council challenged that finding in the Court of Appeal on the assumption that such risk would always be material, but the Court of Appeal ruled against them.

Unlike the High Court, the Court of Appeal recognised the applicability of the EECC within the legal framework, including the health-related conditions set out in Annex I, but did not address how those obligations operate in practice at the planning stage, including in assessing proximity.

The costs to Cheltenham for defending their position are understood to have exceeded £100,000.

These cases demonstrate that the intended framework of protection is not reliable in practice.

Proximity matters, but policy wording restricts its assessment. Issues are forced into judicial review, and even then no solution is reached.

UK-wide Engagement

Across the country, residents and campaign groups are raising the same questions — including in Colchester, Solihull, Lewes, Bristol, Liverpool, Stroud, Swansea, Worthing, Waverley and elsewhere.

In many areas, this has developed into sustained engagement with local authorities, including formal requests to scrutinise ICNIRP certificates more closely and to consider evidence of risk beyond ICNIRP compliance. Organisations such as the Radiation Research Trust continue to present evidence and call for its proper assessment within planning and regulatory decision-making processes.

The Castle Point Local Plan provides one example where the need for active risk assessment — including the relevance of Public Exclusion Zone (PEZ) diagrams — has been recognised.

Following the Cardin case, residents and community groups have begun raising the issue of the "Three UK Ltd" ICNIRP certificates directly with local authorities.

The issue is not simply what information is held, but whether the legal framework is being correctly applied in decision-making. Both the public and local authorities require clarity and certainty on process, evidence, and legal obligations.

Regulation, Rights and Remedies Judicial Review Case - permission refused

In September 2023, a formal submission was made by Neil McDougall /Karen Churchill to central Government departments responsible for health, planning and telecommunications, seeking action to equip local authorities to perform the risk-reconciliation function required under the European Electronic Communications Code.

The submission argued that accepting an unexamined ICNIRP certificate was not a complete legal process. It relied on practical examples showing inconsistency in local authority decision-making, including Mendip, where once informed of the EECC obligations the planning board refused a mast on health grounds after weighing the certificate alongside wider evidence. Whereas other Councils, including Bath, had denied they are an EECC competent authority when processing the Radstock mast.

In the High Court, Judge Jarman refused permission for judicial review on the basis that the claim was out of time as a challenge to the transposition of the EECC framework, and that the adoption of ICNIRP guidelines and the designation of Ofcom as national regulator were sufficient to meet the United Kingdom's obligations.

This did not engage with the substance of the claim, which concerned the continuing failure to identify, allocate, and operationalise the competent authority risk reconciliation functions required to be exercised in practice at the local planning stage.

In the Court of Appeal, Lady Justice Falk refused permission to appeal, affirming that the claim was out of time and stating that it raised a "political, not legal" issue, and the case did not proceed to a substantive hearing. Permission to appeal to the Supreme Court of the United Kingdom was subsequently refused.

That position is in direct contrast to Thomas v Cheltenham Borough Council, where the Court of Appeal recognised that the EECC forms part of the applicable legal framework, including Annex I conditions requiring the protection of public health to be considered in telecommunications deployment.

The result is a clear and unresolved contradiction, either it applies or it does not. It is unacceptable that two directly opposing positions on this fundamental issue have been taken by Court of Appeal judges — and the Supreme Court refused to address the matter.

The McDougall/Churchill proposed remedies addressed the absence of any structured process by which public health and environmental risks can be reconciled. In particular, they sought the introduction of telecommunications-specific Environmental Impact Assessment processes, without which Local Planning Authorities cannot perform the competent authority functions required under the European Electronic Communications Code.

In substance, the claim sought to establish a functioning, consistent and lawful process by which site-specific risk could be assessed, rather than assumed through unexamined certification.

This interpretation is consistent with a formal response provided by Government solicitors in 2019, addressing the status of ICNIRP guidelines within the planning and regulatory framework:

"the Guidance is not maintained and revised by PHE for the explicit purpose of any other body undertaking any other statutory function. If in any other context regard is had to the Guidance that is entirely a matter for the discretion of the relevant body and it must determine what weight to place on the Guidance. Equally, that body must determine what other evidence to consider in making any decision."

(DLA Piper, on behalf of Public Health England, 8 August 2019)

This confirms that ICNIRP guidance is not determinative, and that decision-makers are required to assess and weigh relevant evidence in context.

The application of Environmental Impact Assessments was also tested in practice by McDougall/Churchill in relation to a proposed 5G mast upgrade at Beechen Cliff School, where ICNIRP certification was relied upon without disclosure of exclusion zones or any assessment of site-specific risk, despite the presentation of EECC obligations.

Government now acknowledges that judgement on evidence of risk is required — b**ut does not exercise it**

In February 2026, following correspondence raised by Rishi Sunak, the Department of Health and Social Care responded, stating:

"the interpretation of studies… is a matter of judgement"

That position is difficult to reconcile with the Government's response to the judicial review brought in Angell and Others v Secretary of State for Health and Social Care, in which the sufficiency of reliance on ICNIRP guidelines was directly challenged.

In that case detailed evidence was advanced challenging the sufficiency of reliance on ICNIRP guidelines, including evidence relating to children, individuals with metal implants, and those reporting electromagnetic sensitivity. The Government provided no risk assessment in relation to this evidence and the Court did not engage with it, instead treating the matter as one of scientific judgment for Government.

The position now advanced — that interpretation of the evidence is a matter of judgement — therefore exposes a clear gap: judgement is said to be required, but no mechanism exists by which it is applied.

The question of who is responsible for performing this function has been put directly to Government.

Solihull Metropolitan Borough Council formally requested clarification as to which authority is responsible for applying the public health and risk-reconciliation duties under the European Electronic Communications Code.

No answer was provided. No authority was identified. No process was established.

The question of who performs this function has been raised directly with Government.

In response to Parliamentary engagement in 2020 **Matt Warman MP i**ndicated that Local Planning Authorities were already operating as competent authorities within the framework.

No clarification was provided as to how that function is to be performed in practice, nor how risk is to be assessed and reconciled at the point of decision-making.

In 2023, following constituent concern regarding a telecommunications mast adjacent to a school within his constituency, **Matt Warman MP i**ntervened directly with the telecoms company and persuaded them not to go ahead.

The need for direct intervention says something in itself.

It should not take a minister stepping in to resolve what is, at its core, a planning decision.

It does not address the underlying issue: a system in which responsibility for assessing risk is unclear, and in which consistent, evidence-based decision-making does not take place.

Parliamentary Questions and the missing mechanism

Between December 2025 and January 2026, **Neil Shastri-Hurst MP** tabled a series of written Parliamentary Questions regarding ICNIRP certificates. He asked,

"how many instances of non-compliance with ICNIRP public exclusion zone requirements for telecommunications masts have been identified in each of the last five years; and what enforcement action was taken in each case."

He also asked whether the Government planned to introduce:

"mandatory third-party verification of ICNIRP compliance for telecoms mast installations."

The responses did not engage with those points. They did not address whether exclusion zones are examined, how breaches are identified, or whether any process exists for verification at the planning stage.

Instead, the answers restated the existing framework — reliance on ICNIRP guidelines, Ofcom licensing, and planning policy requirements for self-certification.

The questions were framed at a policy level and did not engage directly with the underlying legal issue raised by McDougall/Churchill in their 2023 submission filed with the three departments where the interplay of obligations across the three departments was identified.

EECC, the 1999 Recommendation, and the role of evaluation

The Government's position, as stated in the Defendant's Summary Grounds of Resistance in that case, was that "the ICNIRP and the Recommendation are… aligned in the exposure restrictions they suggest", with the Applicants' interpretation treated as a misunderstanding.

It is accepted that they are aligned in terms of exposure limits, but this does not address the core argument, which concerns the role of the Recommendation within the EECC framework, including how evidence is assessed and weighed in practice.

Annex I(3)(b) of the EECC provides for conditions relating to the protection of public health, to be applied within the general authorisation framework, "taking utmost account of Recommendation 1999/519 EC".

As also recognised by Andrews LJ in the Court of Appeal in Thomas v Cheltenham Borough Council, those conditions form part of the legal framework governing telecommunications deployment.

The 1999 Recommendation is not simply a table of limits. It is expressed in evaluative terms, providing that Member States should "take into account the reference levels", "evaluate situations involving sources of more than one frequency", and may take into account factors such as "age and health status of the public", while considering evidence from the "widest possible range of sources".

Recital 19 of Recommendation 1999/519/EC further confirms that this framework operates "taking into account the aspect of precaution", and requires "regular scrutiny and review… in the light of guidance issued by competent international organisations, such as ICNIRP".

The framework therefore provides for assessment in context, rather than reliance on a fixed threshold alone.

In practice, that evaluative function must be exercised at the point of site-specific decision-making. The identification of exclusion zones is the first step in any meaningful assessment of risk arising from proximity.

The Mendip Council refusal demonstrates that this pathway can operate in practice, with the planning committee taking into account evidence from a wide range of sources beyond the certificate itself, and concluding that there was insufficient evidence of safety.

However, that approach is not required, structured, or consistently applied in practice.

Section 7 of the Retained EU Law (Revocation and Reform) Act 2023 Challenge

Following the refusal of permission in the judicial review proceedings, further attempts were made to resolve the issue through administrative means.

Submissions were made under Section 7 of the Retained EU Law (Revocation and Reform) Act 2023 on:

- 26 November 2025
- 14 January 2026
- 17 February 2026
- 18 April 2026

These submissions addressed the same issue: the absence of any functioning process for assessing site-specific public health risk.

The submissions proposed a non-adversarial route to resolution, including the introduction of telecommunications-specific Environmental Impact Assessment processes and clarification of the competent authority function.

No response has been received.

Moving forward

The implications of this gap differ depending on who is involved in the process.

For members of the public, it raises questions about what information can be requested and how evidence is to be considered.

For planning authorities, it raises questions as to whether the information underpinning a declaration of compliance has been obtained and assessed in a site-specific context.

For Government, it raises the question of how the risk-reconciliation functions identified within the EECC are to be operationalised in practice.

These issues were addressed in detail in the 2023 McDougall/Churchill submission, which set out a structured set of remedies to establish a consistent and lawful process for assessing site-specific risk.

The issue is not the absence of a solution, but the absence of any mechanism through which solutions are made to work. These are not simply procedural gaps. They affect whether evidence can be tested, whether participation is meaningful, and whether decisions are made on a reliable basis.

Legal Implications – European Court of Human Rights

In the absence of any substantive determination of the issues raised in the McDougall/Churchill proceedings, and where public exclusion zones are neither independently verified nor site-specific risks to vulnerable receptors examined, Articles 6, 8 and 13 of the European Convention on Human Rights are engaged.

If no response is obtained, the matter will proceed to the European Court of Human Rights.

This is not a question of opposing technology.
It is a question of whether the system intended to assess risk is functioning at all.

Where evidence is not disclosed, assessed or reconciled, transparency, accountability and accuracy cannot be assured.

Bath for Safe Technology

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