

Judicial Review Heard

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Is the government informing the public of risks associated with 5G roll out?

This update is from our barrister, Philip Rule, written for his chambers' website:

On 6 and 7 February 2023 the Administrative Court heard the judicial review of the Secretary of State's alleged failure to address the evidence of risks to human health posed by 5G technology.

No5's Philip Rule acts for the claimants, led by Michael Mansfield KC, and instructed by Lorna Hackett of Hackett & Dabbs LLP. The case is brought by Action Against 5G and with the support of the public through Crowd Justice.

At the hearing the government argued that there is no duty to inform the public of any risks at all, because it essentially denies that there are any risks from the increased exposures or new form of radiation frequency to be used in 5G rollout. This is in keeping with its publications that have sought to reassure the public that there – categorically and conclusively – is no chance of harm arising from exposure to 5G and radiofrequency radiation (“RFR”).

The claimants' case was outlined to the Court identifying that such a position taken by the government is not based upon the scientific report that the government itself has advanced as being the most up-to-date piece of international research. That is the "ICNIRP" (International Commission on Non-Ionising Radiation Protection) March 2020 guidelines. These however are far from finding that there are no risks at all.

Indeed, far from providing any proof of an absence of risk, the ICNIRP guidelines in fact evidence the existence of risks, and notes that several are yet to be fully understood or proven by repetition of study or by anthropological study directly on people who are 'guinea pigs' for ubiquitous RFR or 5G in the real-world.

ICNIRP summarises that it concludes, (based on its very limited approach discussed above) that there are already three substantiated effects caused by exposure to radiofrequency EMFs: (i) nerve stimulation, (ii) changes in the permeability of cell membranes, and (iii) effects due to temperature elevation. For many other recorded matters, it essentially notes the jury is still out, but did not find that as yet the harm to human health has already been proven. In particular there are not yet any significant number of studies into 5G technology (which uses high frequency waves, and targeted beams and pulsation in a way earlier generations did not).

For those with disability treated by medical implant the consideration of safety given by ICNIRP, in its revised 2020 guidelines expressly do not cater for their safety. As well as those genetically or environmentally susceptible to suffer cancer or EHS in the future from the exposure to RFR, there are also existing vulnerable groups who ought to be considered and who deserve to be given information to assist them (but have not been), including:

- i. Those with disabilities that require medical implants with electrical currents or conductivity, including pace-makers in the heart for example. (This important issue has simply not been addressed at all by ICNIRP);
- ii. Those with disability/injury that required the implant of metal to their body;
- iii. Children—for instance, children's brains absorb greater quantity of RFR, and bone marrow exposure is greater; as well as their lifespan exposure being of longer duration;
- iv. Those who presently suffer disability arising from existing cancer;
- v. Those presently suffering pre-cancerous conditions;
- vi. Those exposed habitually to radiation in the workplace, of particular levels or longevity;
- vii. Those with immunosuppressant conditions;
- viii. Those suffering from ME;

ix. Those suffering from EHS.

The Court was shown, for example, that the International Agency for Research on Cancer has classified both ELF magnetic fields and RF EMFs as possibly carcinogenic to humans. Exposure to non-ionising radiation including radiofrequency is notably a recorded disease or illness recognised by the WHO, since 2005, in the International Classification of Diseases, ICD-10 (even if the precise cause is not yet understood or known). A responsible body of scientific study has raised concerns about risks that remain under study. Many studies ICNIRP identifies have identified certain effects that might prove harmful and their substantiation by further study is awaited – but a position where the jury is out is not the same as a concluded final position established by study that finds a radiation is safe, or safe for all people. Limitations on current knowledge are relevant when assurances are sought to be given by the government. The public has the right to be informed and not misled about how much is known or can be stated with certainty, and what risks remain to be investigated or conclusively determined one way or the other.

The Court of Appeal previously granted permission for the case to proceed on the grounds that challenge:

1. The failure to provide adequate or effective information to the public about the risks and how, if it be possible, it might be possible for individuals to avoid or minimise the risks;
2. (a) The failure to provide adequate and sufficient reasons for not establishing a process to investigate and establish the adverse health effects and risks of adverse health effects from 5G technology and/or for discounting the risks presented by the evidence available; and/or (b) failure to meet the requirements of transparency and openness required of a public body.

These grounds advance a breach of the Human Rights Act 1998 by omissions and failings in violation of the positive obligations to protect human life, health and dignity, required to be met by Articles 2, 3 and/or 8 of the European Convention on Human Rights.

Judgment is awaited from the Administrative Court in due course.

If you would like to support the work being done please visit <https://www.crowdjustice.com/case/legalactionagainst5g/>

[Philip kindly goes on to note ...]

If you feel you may have been affected by the implementation of 5G masts and devices in your environment (or just wish to read more about the studies and scientific research in this field) you may wish to visit <https://actionagainst5g.org/> for more information”.

Action Against 5G notes as follows:

In 2020, ICNIRP also noted that biological effects are not easily discernible from adverse health effects, and that their guidelines:

“are not intended to protect against biological effects as such (when compensatory mechanisms are overwhelmed or exhausted), unless there is also an associated adverse health effect. However, it is not always easy to draw a clear distinction between biological and adverse health effects, and indeed this can vary depending on individual susceptibility to specific situations. An example is sensory effects from nonionizing radiation exposures under certain circumstances, such as a tingling sensation resulting from peripheral nerve stimulation by electric or magnetic fields; magnetophosphenes (light flickering sensations in the periphery of the visual field) resulting from stimulation of the retina by electric fields induced by exposure to low-frequency magnetic fields; and microwave hearing resulting from thermoelastic waves due to expansion of soft tissues in the head which travel via bone conduction to the inner ear. Such perceptions may sometimes lead to discomfort and annoyance. ICNIRP does not consider discomfort and annoyance to be adverse health effects by themselves, but, in some cases, annoyance may lead to adverse health effects by compromising well-being. The exposure circumstances under which discomfort and annoyance occur vary between individuals.”

Thus there are many identified potential outcomes. Philip notes above “Many studies ICNIRP identifies have identified certain effects” and we add also that many responsible bodies of scientific study (for example the International Commission on the Biological Effects of Electromagnetic Fields, Cyprus National Committee on Environment and Children’s Health, Austrian Medical Chambers, American Academy of Pediatrics, American Academy of Environmental Medicine, European Academy for Environmental Medicine, International Society of Doctors for the Environment, Environmental Health Trust, BioInitiative Working Group, French National Assembly) have identified verified risks and that courts have ruled in favour of the science presented by some of these bodies contrary to ICNIRP’s assessment of the same science regarding these risks.

[PLEASE NOTE that the AA5G team does not have the resources to advise on or support most objections and other local actions. We refer you to the excellent material on rinfo.co.uk.]