

- 1) Copy of Inspection schedule and reports for the public highway Enfield Street WN5 8DY
- 2) Any log or reports made to Wigan Council regarding potholes made on this public highway.

I can confirm that the Council is withholding any information that it holds regarding this enquiry under regulation 12(5)(b) of the Environmental Information Regulations 2004. In coming to this conclusion, the Council has taken into account the Information Commissioner's decisions – FER0865364 and FER0777390

Regulation 12(5)(b) provides an exception from the disclosure of environmental information which would adversely affect the course of justice; the ability of a person to receive a fair trial; and the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.

This exception has been applied to the information you have requested because the Council believes it makes it possible for fraudulent claims for damage as a result of highway defects to be made. A disclosure under the EIR is assumed to be to the world at large and some of the details that would be required to make a claim for damage could be obtained from the information you have requested. Of course, this does not suggest any improper purpose to your request.

Furthermore, the Council considers that there is a more appropriate regime other than the EIR for accessing information that is relevant to a claim whereby through the claims process the courts decide what information is made available. In this case, the information you have requested is likely to be available under the Civil Procedure Rules. This exception would also be engaged for this reason.

I have applied the Public Interest Test to this request. Whilst I consider it is in the public interest for Councils to be transparent about their affairs and for information about the environment to be disclosed as far as possible, I do not believe it is in the public interest to put the Council's funds (from the taxpayer) at risk of fraud. In addition, the time taken by officers of the Council to investigate the claim would be an unwelcome burden on public funds. I have also considered the public interest in withholding the information in order to safeguard the integrity of the Civil Procedure Rules which predate the EIR. This is an important factor to be taken into account when undertaking the public interest test. The public interest in preventing fraud and protecting the public purse and in preserving

the integrity of the Civil Procedure Rules outweigh the public interest in transparency.

Should you wish to process your claim, you will need to write to our Insurance Section at Wigan Town Hall, Library Street, Wigan, WN1 1YN, or email via [BSSLegal-Insurance@wigan.gov.uk](mailto:BSSLegal-Insurance@wigan.gov.uk) . You will need to provide full incident details, invoices, receipts and all relevant documentation. You have a duty to mitigate your losses and to advise your insurers of the incident as soon as it has occurred. Your insurers may wish to recover your losses on your behalf and again they will need to write the Insurance Section with the relevant information. You are entitled to seek legal advice. If you do not have a solicitor, you may wish to contact the Association of Personal Injury Lawyers (APIL) to obtain the name of a suitably qualified expert solicitor in your area. Their advice may be free to you, or alternatively you may wish to contact the Citizens Advice Bureau.