

Reference: 01622740

Information Requests  
[information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

1 June 2023

### Freedom of Information: Right to know request

We write further to our email on 24 May 2023 to respond to your Freedom of Information requests as set out below.

#### You asked for:

*“any information/email/correspondence etc with Spring Fibre or Kingsley LLC”*

In addition, on 5 April:

*“I now register a Freedom of Information Request in relation to [redacted] - regarding Spring Fibre.*

*In addition - I also request all your correspondence/information in relation to your dealings with Spring Fibre and Kingsley LLC”.*

#### Our response

We hold information on correspondence with Spring Fibre Limited generally over a number of years as it applied to Ofcom for, and was granted, powers under the electronic communications code which is set out in Schedule 3A to the Communications Act 2003 (the Act). However, we consider that this information is exempt from disclosure under section 44 of the Freedom of Information Act 2000 (the FOI Act). This exemption provides that information is to be withheld if its disclosure is prohibited by or under any enactment. Section 393 of the Act prohibits us from disclosing information about a particular business (such as Spring Fibre Limited) which has been obtained in exercise of a power conferred by, among other legislation, the Act, so long as that business continues to be carried on, unless we have the consent of that business or one of the statutory disclosure gateways under section 393(2) of the Act is met, neither of which apply here. Section 44 is an absolute exemption under the FOI Act and does not require a public interest test.

We also consider that other exemptions under the FOI Act may also apply here such as the exemptions under sections 41(1) and 43(2) of the FOI Act.

Please note that we have published some information relating to its application for powers under the electronic communications code on our website here: [Consultation: Proposal to apply Code powers to Spring Fibre Limited - Ofcom](#)

I can confirm that we do not hold any information on Spring Fibre and Kingsley LLC in relation to correspondence about [redacted], Louth as Ofcom has had no consultation or discussion with Spring Fibre or Kingsley LLC about this. [redacted] advised that operators are required to follow a [Code of Practice](#). This Code of Practice provides guidance on the siting, keeping, maintenance and use of above the ground electronic communications apparatus, specifically cabinets and poles. This code states that Code Operators<sup>1</sup> should initially offer to discuss any planned development with the relevant planning authority and we would normally expect the local planning authority to have some influence on where the infrastructure is placed. Operators do not necessarily have to consult with residents directly. However Code operators are required to consult highway/road/planning authorities or relevant undertakers in certain circumstances (for further details see Regulation 3 of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003). If your planning authority do not believe that the correct process was followed, they can raise the matter with us.

I hope this information is helpful. If you have any queries, then please contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk). Please remember to quote the reference number above in any future communications.

Yours sincerely,

## Information Requests

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

### Timing

If you wish to exercise your right to an internal review, **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk).

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

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<sup>1</sup> Operators that have been granted powers under the Electronic Communications Code