

## FULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/26-107 - Environmental Information Regulations 2004 (EIR)

1. **Request Details:** Full contents of any investigation, incident and fishkill files to include:
  - any statements, reports or assessments conducted
  - results of any sampling undertaken together with explanation of any technical findings and any conclusions drawn therefrom
  - Any photographs, videos, plans or drawings made or obtained in connection with the investigation.
  - Any interviews, admissions or statements made by the perpetrator together with details of the perpetrator's legal representatives and insurance status/details
  - Any correspondence with NIEA relating to this incident
  - Any correspondence with any third party arising from this incident
  - Copies of any statements or reports presented to the Court
  - Confirmation of fine, offender levy and any compensation/restitution/costs Orders or otherwise made at Court herein
  - Any unused material
2. Any specifications, work orders or summary of actions taken as a result of the incident
3. Confirmation of any enforcement action taken to ensure the cessation of pollution together with confirmation of removal of the offending infrastructure at source.
4. Confirmation of any acts or omissions concerning restitution of the said rivers, flora and fauna following the incident
5. Details of any sampling undertaken by you, or any third party, both pre and post this incident together with all results therefrom.

### Brief description of the Personal Data falling within the scope of the request

Personal data of which the requester is not the data subject is also held within this report. This includes names, addresses and phone numbers of NIEA staff and members of the public.

## LAWFULNESS

### Please identify the lawful basis for processing

Personal data is processed when it is lawfully disclosed in response to an FOI / EIR request.

The lawful basis for processing are set out in Article 6 of the GDPR and the ICO expects at least one of two lawful bases (Consent / Legitimate Interest) to apply before the personal data held can be disclosed.

- Consent:** This will apply when the data subject(s) clear consent exists that allows you to disclose the personal data falling within the scope of this request.
- Legitimate interests:** the processing is necessary for the Department's legitimate interests or the legitimate interests of a third party that overrides the data subject(s) rights and freedoms, particularly their right to privacy.

## **Consideration of Legitimate Interests**

### **1. PURPOSE**

As the disclosure of personal data under FOIA or EIR is a disclosure to the world at large, doing so on the strength of a requester's private interests alone could constitute a disproportionate and unwarranted level of interference with the data subject(s) rights and freedoms, particularly their right to privacy and family life under the Human Rights Act 1998.

### **2. NECESSITY**

The right of access under FOI or EIR does not in itself constitute a **pressing social need**.

The Department has considered and not identified any such need for the data subject's right to privacy to be interfered with.

### **CONCLUSION**

Having considered all the information contained within this test, the Department has established that, on balance, no lawful basis exists for the disclosure of third-party personal data falling within the scope of the request of which the requester is not the data subject.

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**Water Pollution Response and Enforcement Team**  
**Water Catchment Unit**