

Public Interest Test – DAERA/26-107

Reference Number – DAERA/26-107

Requested Information

1. 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.

Exception / Exception under consideration

Regulation 12(4)(e) – Internal communications.

Reasons why the public interest would favour disclosure:

- Regulation 12(2) establishes a presumption in favour of disclosure, and the Department is committed to openness and transparency.
- Transparency of ministerial engagements: there is legitimate public interest in understanding when and why the Minister meets stakeholders on environmental governance.

- Disclosure may help explain how the Department approaches court cases, how decisions are formed, and how environmental legislation is enforced.

Reasons why the public interest would favour withholding:

- Safe space for internal coordination: Officials and Private Office require room to plan and coordinate policy-sensitive handling and communications without external pressure. Premature disclosure of internal handling advice risks external lobbying or misinterpretation and may undermine orderly policy handling.
- Even though the court case is concluded, the Department must retain the ability to develop legal arguments, consider case precedents, and assess regulatory implications internally. Disclosure could inhibit the development of similar regulatory or enforcement decisions in the future.
- The information includes exchanges that form part of the Department's internal litigation preparation. Disclosure may weaken the Department's position in any related or future proceedings, as it would reveal internal reasoning, legal assessments, and tactical considerations.

Conclusion

Having taken account of the presumption in favour of disclosure (Regulation 12(2)), on balance the public interest in maintaining the exception outweighs the public interest in disclosure for this specific wording. The Department will disclose the prosecution file but will withhold emails during the collation of materials surrounding this case under Regulation 12(4)(e) (internal communications) for the reasons above.

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Water Pollution Response and Enforcement Team