

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/26-87 – Environmental Information Regulations 2004 (EIR)

Request Details:

Please provide the following information:

Aggregated information sought regarding the number of suspected breaches, number of checks on fishing vessels, and the number of fishing vessels checked (Requests, 1, 2a, 2b, 3a, and 3b).

Detailed information sought on individual breaches that resulted in formal enforcement action of any kind (Request 4a).

Additional detailed information sought for any breaches related to sea fisheries regulations that resulted in a prosecution (Request 4b).

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

Within the requested data, the following personal data is concerned:

- The identity of individuals

LAWFULNESS Please identify the lawful bases for processing

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

The lawful bases 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 FOI is 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.

Where no pressing social need is identified, disclosure would be considered to be unlawful and therefore there is no requirement to undertake the balancing test.

CONCLUSION

Having considered all the information contained within this test, the Department has established that there is no lawful basis for the disclosure of the personal data falling within the scope of the request.