

Public Interest Test – EIR

Reference Number – DAERA/26-71

Requested Information

- Request for enforcement and investigation records – historical waste offence heard in Newry Magistrates' Court in 2010 including in particular:
- Any statement of facts, witness statements, or investigation summary relied upon in the prosecution
- Any document identifying the factual basis on which it was alleged that I personally caused or knowingly permitted the deposit of controlled waste, as a partner in an unlimited partnership
- All enforcement correspondence, notices, warnings, or compliance communications issued in respect of the deposited material
- Confirmation of whether any notice requiring removal of deposited material was ever served, and if not, confirmation that none was considered necessary
- Defendant name: Fergal Mc Alinden
Approximate date of proceedings: 2010
Court: Newry Magistrates' Court

Exemption / Exception under consideration

Under Regulation 12 (4) I can advise that the Department is exempted from the duty to disclose the information on the grounds that the information is not held by the Department.

Reasons why the public interest would favour disclosure:

1. Transparency and Accountability
Disclosure supports openness and transparency about the environmental impacts of waste crime.
2. Public Participation in Environmental Decision-Making
Access to environmental information enables the public to understand potential risks and engage in informed discussion on waste crime.
3. Environmental Protection
If the information were held, disclosure could help public scrutiny of whether environmental safeguards are effective.

Reasons why the public interest would favour withholding:

1. **The Department Cannot Disclose Information It Does Not Hold**
There is an inherent public interest in accurate and lawful responses. Providing fabricated, speculative or incomplete information would mislead the public and undermine confidence in environmental regulation.
2. **Efficient Use of Public Resources**
Attempting to locate, reconstruct, or acquire information the authority does not hold would place unreasonable burdens on staff and divert resources from statutory functions.
3. **Preserving Clarity About Statutory Responsibilities**
It is in the public interest to make clear when another body — such as an environmental regulator, private contractor, or different authority — is the appropriate holder of the requested information.

Conclusion

While there is strong public interest in transparency around environmental monitoring, this cannot outweigh the fact that the authority does not hold the requested information. Maintaining the exception supports clarity and legal compliance.

On balance, the public interest in maintaining the exception outweighs the public interest in disclosure.



Environmental Crime Unit