

Public Interest Test – FOI / EIR

Reference Number – DAERA / 26-27

Requested Information

Regarding the following works at the Wastewater Treatment Works (WwTW) at The Loup, County Londonderry:

- Construction and operation of two Final Settlement Tanks
- Construction and operation of Tertiary Treatment (Reed Bed)
- Essential maintenance of Filter Bed No. 2
- Upgrade of Filter Bed No. 1 and No. 2

1. *Timing Information*

- *Date commenced (month/year or better)*
- *Date commissioned or first brought into operation*
- *Date of any operational handover (if held)*
- *Date on which NIEA became aware that the works had been carried out and how this occurred (inspection, correspondence, notification, or other basis)*

2. *Environmental Regulatory Basis*

- *The environmental or regulatory driver for the works (e.g. consent compliance, environmental performance, capacity, enforcement, or other)*
- *Any assessment, correspondence, inspection notes or reports held by NIEA which identify the need for the works from an environmental perspective*

3. *Consent and Monitoring Interaction*

- *Whether NIEA considered amendments to the Water Order Consent in relation to any of the works listed*
- *Whether the works resulted in any change to sampling frequency, sampling methodology, monitored parameters, or compliance expectations*

4. *Documentation and Records*

- *Copies of any documents, inspection notes, photographs, reports, notifications, or correspondence held by NIEA that record, reference, confirm or discuss the works listed*

Exemption / Exception under consideration

Regulation 12(5)(b), “For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—

The course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;”

Which allows public authorities to withhold information if disclosing it would adversely affect formal legal or enforcement proceedings. This exception, however, is qualified, meaning a public interest test must be applied before withholding information.

Reasons why the public interest would favour disclosure:

- Access to official information can improve public confidence and trust and Departments have a duty to operate transparently.
- Regulation requires the Department of Agriculture Environment and Rural Affairs (DAERA) to apply a presumption in favour of disclosure.
- The information is topical as it is linked to the ongoing blue green algae crisis which is of wide public interest.

Reasons why the public interest would favour withholding:

- The requested information is linked to ongoing enforcement action in line with DAERA enforcement process. The inspection notes, reports, photographs, correspondence or notifications may go on to be part of formal legal proceedings.
- The collation of all relevant material would put an unnecessary strain on the resources of the Department at a time when it is already facing severe budgeting and staffing challenges.
- The burden of carrying out the request divert resources from delivering essential front-line services such as monitoring WWTWs to protect water quality.

Conclusion

Following consideration of the Public Interest Test the Department has decided that on balance, the public interest in maintaining the exemption does outweigh the public interest in disclosing the available information due to the effects any disclosure of correspondence regarding non-compliances would potentially have on ongoing formal legal proceedings carried out by NIEA.