

Public Interest Test –EIR

Reference Number – DAERA/26-31

Requested Information

Re: Emmet McGrogan & Louise McGrogan -V- David Pattison

Address: 47 High Bangor Road, Donaghadee, BT21 OPB

All relevant correspondence, investigation reports, site notes or other information pertinent to the investigation of the septic tank.

Exception under consideration

Regulation 12(5)(b) – The course of justice and inquiries exception

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 12(2) of the Environmental Information Regulations 2004 requires a presumption in favour when considering requests for environmental information.

Reasons why the public interest would favour withholding:

- The requested information is linked directly to an ongoing enforcement investigation being taken under the Water (Northern Ireland) Order 1999, in line with DAERA enforcement process. The correspondence may go on to be part of formal legal proceedings.
- Early release of details at this stage could prejudice the Department's ability to conduct its statutory enforcement functions effectively.
- Information that includes legally privileged advice must remain confidential to protect the justice process.
- There is a strong public interest in ensuring that environmental enforcement action is conducted properly, lawfully and without compromise, so that the outcomes are robust and capable of withstanding legal scrutiny.

Conclusion

Following consideration of the Public Interest Test, the Department has decided that on balance, the public interest in maintaining the exception under Regulation 12 (5)(b) does outweigh the public interest in disclosing the available information at this time.

This is due to the implications any disclosure of correspondence regarding enforcement actions would have on ongoing formal legal proceedings.

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Water Management Unit