

DAERA/26-282: Public Interest Test (PIT)

Environmental Information Regulations 2004

Assessment of EIR request from requester

Subject of public interest test

Information relating to:

- Evidence of fishing rights submitted by Lough Neagh Fishermen's Co-operative Society Ltd (LNFC);
- Correspondence and communications between DAERA and LNFC;
- Internal briefings and assessments relating to private water bailiffs and associated public statements on Lough Neagh.

Exceptions being considered

The Department has decided not to disclose some of the requested information as it falls under the following exceptions within the Environmental Information Regulations 2004:

- **Regulation 12(5)(b)** – the course of justice and inquiries exception;
- **Regulation 12(4)(e)** – internal communications.

Reasons for Disclosure

Regulation 12 requires the Department to apply a presumption in favour of disclosure.

The Department recognises that disclosure would:

- i. Promote openness and transparency in relation to the Department's involvement in matters concerning private water bailiffs and fisheries management;
- ii. Support public understanding of the interaction between private fishing rights and regulatory oversight;
- iii. Contribute to public debate regarding the management and use of Lough Neagh;
- iv. Provide assurance that the Department is operating within the appropriate legislative framework.

Reasons against Disclosure

- **Regulation 12(5)(b)**
 - i. The Department is aware of ongoing and anticipated High Court proceedings concerning the ownership of fishing rights on Lough Neagh.
 - ii. Disclosure of the requested information could prejudice the course of justice by placing material relevant to those proceedings into the public domain outside of the court process.
 - iii. Disclosure may undermine the ability of parties to receive a fair hearing and could interfere with the proper administration of justice.
 - iv. There is a strong public interest in ensuring that matters subject to legal proceedings are considered by the courts without prejudice.

- **Regulation 12(4)(e)**
 - i. The requested information includes internal communications, including briefing and advice prepared for Ministers and senior officials.
 - ii. Disclosure would be likely to inhibit the free and frank exchange of views and the development of advice within the Department.
 - iii. The Department requires a safe space to consider complex and sensitive issues, including those with potential legal implications.
 - iv. Disclosure could undermine the Department's ability to develop and refine its position in matters subject to public and legal scrutiny.

Conclusion

In applying the Public Interest Test, the Department has balanced the general public interest in openness and transparency against the strong public interest in protecting the course of justice and maintaining the integrity of internal communications. On balance, the Department has concluded that the public interest lies in maintaining the exceptions under Regulations 12(5)(b) and 12(4)(e), and that the withheld information should not be disclosed.

