

Reference Number: DAERA/26-428
Request Details: Regen RPS
correspondance



Department of
**Agriculture, Environment
and Rural Affairs**

An Roinn

**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

Depairtment o'

**Fairmin, Environment
an' Kintra Matthers**

www.daera-ni.gov.uk

Northern Ireland Environment Agency
Waste & Industrial Pollution Regulation
and Enforcement Division

██████████
██████████ [gmail.com](mailto:██████████@gmail.com)

Waste Permitting Team
Lisburn NIEA
17 Antrim Road
Lisburn
BT28 3AL

Telephone: 02890569596

E-mail: daera.informationmanager@daera-ni.gov.uk

23 July 2026

Dear ██████████,

Environmental Information Regulation 2004

I refer to your request for information received by the Department on 24 June 2026 that sought the following information:

Please see information request below in Appendix A

I can advise that the Department has completed its search and can confirm that it holds some of the information you requested. In answer to your 3 questons:

For Question 1 the Ministers reply and the Departments subsequent reply can be disclosed and the text of the replies are attached as Appendix D. An associated Public Interest Test has been conducted and is attached for your information at Appendix B.

For Questions 2 under Regulation 12(4)(a) the Department is excepted from the duty to disclose the information on the grounds that the information sought is not held.

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For Question 3 The Department has decided not to disclose some of the information you requested as it considers the request involves the disclosure of internal communications – regulation 12(4)(e) to be engaged. In these instances, the Department is legislatively required to consider the public interest in disclosure. An associated Public Interest Test has been conducted and is attached for your information at Appendix B.

Some of the information held constitutes personal data of which you are not the data subject. In these instances, the Department is required to consider if disclosure would breach the first Data Protection Principle, which states that processing must be lawful, fair and transparent.

The Department has considered this element within the test attached at Appendix C and has determined that no lawful basis for disclosure under EIR exists. Please bear in mind that any disclosure must be considered in terms of disclosure to the “world at large” and not just to you, the requester. Consequently, third party personal data falling within the scope of this request has been withheld.

If you require any clarification, believe that any part of your request has been overlooked, misunderstood or misinterpreted, please contact me in the first instance to see if it is a matter that can be resolved.

If you are unhappy with the manner in which your request for information has been handled or the decision to release/withhold information, you have the right to request a formal review by the Department. If you wish to do so, please contact The Review Section either by e-mailing daera.informationmanager@daera-ni.gov.uk or by post at The Department of Agriculture, Environment and Rural Affairs, Data Protection & Information Management Branch, Floor 2, Jubilee House, 111 Ballykelly Road, Ballykelly, Limavady BT49 9HP, within two months from the date of this letter.

If after such an internal review you are still unhappy with the response, you have the right to appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, CHESHIRE SK9 5AF, who will undertake an independent review of the Department’s decision.

Yours sincerely,

Waste Permitting

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Appendix A

Dear DAERA Information Manager,

I am writing to request an internal review of the refusal issued under reference DAERA 26/313.

I note the Department's comments in Appendix A regarding the volume of my previous correspondence and requests, including the TOF-0132-2026 response.

I accept that my original EIR request may have been broad. To address the resource concern and reduce burden, I now narrow the request to the following clearly defined records only, for the period 17 February 2026 to 12 May 2026:

1. A copy of the response from Minister Andrew Muir, or any response issued on his behalf, to Re-Gen Waste Ltd's letter dated 17 February 2026 concerning a Regulatory Position Statement for the DBR site.

2. Copies of any correspondence, including emails, letters, attachments, briefing notes, or forwarded messages, to or from the following individuals or offices concerning that same letter, the proposed RPS, the DBR site, the Warrenpoint site, or planning approval for storage at DBR:

- Minister Andrew Muir;
- Minister Liz Kimmins;
- Sinéad Ennis MLA;
- Chris Hazzard MP;
- Claire Hanna MP;
- Colin McGrath MLA;
- Diane Forsythe MLA;
- the Chief Executive of Newry, Mourne and Down District Council.

3. Any note, minute, or briefing record held by DAERA or NIEA that records the substance of any engagement with those persons or offices arising from Re-Gen's letter of 17 February 2026.

For the avoidance of doubt, I am not seeking the wider universe of correspondence, every internal file note, or all material relating to the general DAERA/Re-Gen relationship. I am only seeking the specific records listed above.

Public interest point: Greater transparency and prompt disclosure of ministerial engagement on live permitting matters would build public confidence and likely reduce the need for repeated follow-up correspondence from myself and others. I invite the

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review to consider whether these limited records could be disclosed to serve that interest, rather than refusing the request in full under regulation 12(4)(b).

If any record is withheld in full or in part, please identify it, state the precise exception relied upon, and explain why the public interest favours withholding. If held, please disclose the non-exempt material.

Yours faithfully,

John Kerr

APPENDIX B

Public Interest Test – Environmental Information Regulations

Reference Number – DAERA/26-428

Requested Information:

Please see Appendix A, questions 1 and 3

Exemption / Exceptions under consideration

Regulation 12(4)(e) - the disclosure of internal communications

Reasons why the public interest would favour disclosure:

- Everyone has the right to access environmental information.
- Disclosure of the information would provide confidence that the regulators decision making processes have been carried out fairly and without fear or favour.

Reasons why the public interest would favour withholding:

- Complying with the volume of information requested would apply an unjustified level of disruption to staff already working in difficult circumstances due to already busy workloads.
- The requestor's right of access does not justify the commitment of a significant sum of public money and resources to collect the information.
- The Department has already supplied a very significant amount of information from numerous previous requests. Some of the information now requested asks again for information already supplied. The motivation, value and serious purpose for the numerous requests are unclear but the pattern appear to relate to a campaign. The requests appear to be wide ranging fishing expeditions across several sites. The numerous requests appear to have a significant AI component. The Department also notes the large number of other correspondences from Mr Kerr.
- Reasons as listed on the ICO website <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/regulation-12-4-e-internal-communications/>

Conclusion

Following consideration of the Public Interest Test, the Department has decided that it would be in the public interest to fulfil the request made by the requestor for question 1, however question 3 relates to internal documentation and the release of this material would not be in the public interest.

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APPENDIX C

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/26-428 - Environmental Information Regulations 2004 (EIR)

Request Details: Please see Appendix A

LAWFULNESS

Please identify the lawful basis for processing

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

The lawful basis for processing is 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 FOIA or EIR is a disclosure 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.

CONCLUSION

Having considered all of the information contained within this test, the Department has established that, on balance, there is no lawful basis for the disclosure of third party personal data falling within the scope of the request [of which the requester is not the data subject.]

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APPENDIX D

Dear (Regen)

REQUEST FOR REGULATORY POSITION STATEMENT (RPS) TO ENABLE TEMPORARY RESIDUAL WASTE STORAGE AT THE DERRYBOY ROAD SITE.

I refer to your letter of 17th February 2026 concerning the above matter.

I have forwarded your request to the Northern Ireland Environment Agency (NIEA) for consideration. The NIEA are the appropriate authority for determining such requests and a response will be issued directly from the NIEA in due course.

It is, however, imperative that you continue to conduct your waste activities in accordance with the conditions currently set out in your approved waste management authorisation.

Yours sincerely

ANDREW MUIR MLA

Minister of Agriculture, Environment and Rural Affairs

Dear (Regen)

I refer to your letter to Minister Muir of 17th February 2026, and the Ministers response of 24th February 2026, concerning the potential for a Regulatory Position Statement (RPS) to enable temporary residual waste storage at the Derryboy Road site.

I note your reference to an Environment Agency (EA), England, Regulatory Position Statement (RPS352) that allowed authorised sites to store volumes of RDF over and above their conditioned limits. For your information this was withdrawn on 5th Jan 26. Regardless, the RPS only applied where there was unplanned downtime at energy from waste incineration plants or biomass plants or unplanned arisings of waste (for example, accumulation of waste caused by waste collection strike action). In your correspondence of 17th February, you appear to indicate the need for additional temporary storage is required due to lack of speed in progress with planning approvals (which seek to expand storage capacity) at the site, and 'market conditions'.

As you are aware planning approval is a matter for the local district council and, where relevant, must be obtained in advance of any application to vary the conditions of the sites waste management authorisation. The NIEA is happy to consider how it might expedite such an application, once received.

Further, it is not clear in your correspondence what you mean by 'market conditions' however it is presumed this relates primarily to seasonal demand for RDF in 'energy from waste' plants. The NIEA is of the opinion that producers of RDF are fully aware of seasonal demands, which are not unexpected market conditions but a commercially understood logistical issue for which producers should plan accordingly to support business needs and ensure continued compliance with relevant authorisations. This matter was previously discussed with you during our onsite meeting of 19/08/2025. During that meeting, and in connection with the above, I also discussed an enforcement notice issued to ReGen on 25/07/2025 concerning unauthorised external storage of RDF

the Derryboy Road site. Under an agreed timeframe Regen complied with that enforcement notice, and on that occasion no further enforcement action was considered necessary. The NIEA would not expect a similar noncompliance to arise this year, given our previous discussions.

Therefore, considering the above, I can advise that the Agency cannot accommodate your request concerning an RPS at this time, and the conditions of the site's current waste management authorisation remain unchanged and must be adhered to.

Please do feel free to contact me should you wish to discuss this matter further.

Yours sincerely,

NIEA Head of Waste Regulation Unit

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