

**Northern Ireland Environment Agency**  
Waste Industrial Pollution, Regulation  
and Enforcement Division



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

An Roinn

**Talmhaíochta, Comhshaoil  
agus Gnóthaí Tuaithe**

Department of

**Fairmin, Environment  
an' Kintra Matthers**

[www.daera-ni.gov.uk](http://www.daera-ni.gov.uk)

Our reference: **DAERA/26-468**

Via e-mail to: [REDACTED]  
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05 August 2026

Dear Ms Blaney

### **Environmental Information Regulations 2004**

Regarding your request for information received by the Department on 10 July 2026 which sought the following information:

1. At Warrenpoint Harbour Authority's Annual General Meeting on 23 June 2026, WHA answered a number of questions about the storage of RDF/SRF by Re-Gen Waste Ltd on the harbour estate by referring the matter to NIEA as the statutory regulator. This request puts those matters directly to NIEA.
2. For each item below I set out the question put to WHA, WHA's own answer, and the information now requested from NIEA. Document references are included so that specific, factual responses can be provided.
3. By way of relevant precedent, on 10 March 2026 the Information Commissioner issued Decision Notice IC-393464-G2Y2 (Cambridgeshire County Council) <https://eu-west-1.protection.sophos.com?d=ico.org.uk&u=aHR0cHM6Ly9pY28ub3JnLnVrL21lZGlhMi8wdWpnanB2aS9pYy0zOTM0NjQtZzJ5Mi5wZGY=&i=NjU1NTQ1Y2Y2MjBmMmMyMzA0ZGUxOTVj&t=YW5PV0lPeHNRRjdRcUJoanVyemhnSG5mNINDVXJCZnpaFjxZDBWUldwZz0=&h=032c54cec35c4bfdbcd22da758c56987&s=AVNPUEhUT0NFTkNSWVBUSVZNiGAp3DTEG1S2Le3t4K3h6k4CJ>

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[xtfvck7ZIIZsoldIYCZLSIA5pr9IP\\_bqoXLLIo](#) , concerning a request for information about that council's waste contract with Re-Gen Waste Ltd. The Commissioner decided that the authority was not entitled to rely on regulation 12(4)(b) of the EIR and required it to issue a fresh response. He recorded that the request had 'serious purpose and value' and 'concerns the handling of waste', and noted the public interest arising from Re-Gen's operations at Warrenpoint having attracted regulatory and licence-related concern. That decision is directly relevant to the present request and to any reliance on regulation 12(4)(b) or 12(5)(e) to withhold environmental information relating to Re-Gen's operations.

## **Item 1 — Bale height and CAR1 inspection**

Question put to WHA: Is WHA aware that NIEA's CAR1 inspection recorded bales at 8 bales in height on the harbour estate, against the 5-metre Required Practice Standard (RPS) limit?

WHA's answer: NIEA is the statutory regulator and does not issue CAR Reports to WHA. NIEA routinely confirm that they believe WHA's tenants to be compliant. NIEA is the statutory regulator for waste licensing compliance, and WHA expects its tenant to comply with all applicable regulatory requirements.

The information now requested from NIEA is:

- (a) a copy of the CAR1 inspection report(s) for the Warrenpoint harbour estate for the period 1 January 2026 to date, including the inspection that recorded stored bale heights;
- (b) all records of bale heights recorded by NIEA at the estate, and any recorded exceedance of the 5-metre RPS limit;
- (c) any enforcement, warning, advisory or improvement action taken by NIEA in relation to bale height or stack configuration at the estate;
- (d) copies of the confirmations by NIEA to WHA that its tenant is compliant (the assurances WHA describes as given 'routinely'), with dates.

## **Item 2 — Licensed tonnage limit and reconciliation**

Question put to WHA: How does the Authority measure and record the quantity of RDF/SRF held on the Port estate, and how is that reconciled against the licensed tonnage limit? (John Kerr, Q1 and Q9)

WHA's answer: NIEA is the statutory regulator for waste-licence compliance, including tonnage limits. WHA expects the operator to comply with all applicable licence conditions and engages with NIEA where required. Compliance with the tonnage limit is the operator's responsibility and is regulated by NIEA.

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The information now requested from NIEA is:

- (a) the maximum tonnage of RDF/SRF permitted to be stored under the waste authorisation governing the Warrenpoint harbour estate;
- (b) how, and how frequently, NIEA verifies the quantity actually stored against that permitted limit;
- (c) any records held or obtained by NIEA of the tonnage actually stored at the estate over the past 24 months;
- (d) any record of the licensed tonnage limit being exceeded, and any action taken.

### **Item 3 — Financial bond and orphan-waste liability**

Question put to WHA: In the event of operator insolvency or abandonment, who is responsible for removal and disposal of the stored waste, and is any financial provision or bond held? (John Kerr, Q3)

WHA's answer: The financial bond is a matter between NIEA and the Operator. WHA does not hold that bond and is not responsible for setting its amount or calculation basis. Responsibility for removal and lawful disposal would depend on the waste licence, the bond arrangements, the Operator's legal obligations, NIEA's regulatory powers, WHA's contractual position and legal advice at the time.

The information now requested from NIEA is:

- (a) whether any financial provision, bond or guarantee is held in respect of the waste stored at the Warrenpoint harbour estate; if so, by whom it is held and in what amount;
- (b) the basis on which that provision was calculated (in particular whether it reflects the open-market cost of clearing and disposing of the full permitted tonnage);
- (c) whether the provision would cover disposal of fire-damaged or degraded material that is no longer a saleable fuel;
- (d) all correspondence between NIEA and the operator concerning the bond or financial provision since 1 January 2025.

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#### **Item 4 — Cypermethrin: sampling and regulatory status**

Question put to WHA: Has WHA, the Loughs Agency, or NIEA taken any water or sediment samples from Carlingford Lough adjacent to the harbour to test for cypermethrin residues — and if not, why not? (Rotten to the Point, Q9; see also Q7 and Q14)

WHA's answer: WHA cannot answer on behalf of NIEA or the Loughs Agency. NIEA is the relevant environmental regulator, and the operator is responsible for the safe use of insecticide on site. [Q14] That is an operational matter for the NIEA licensee.

The information now requested from NIEA is:

- (a) whether NIEA has taken any water or sediment samples from Carlingford Lough adjacent to the harbour to test for cypermethrin (or other synthetic pyrethroid) residues; if so, the results and dates; if not, confirmation that none have been taken;
- (b) NIEA's records of the cypermethrin product in use at the site, its approval status under the Biocidal Products Regulation, and the basis on which outdoor fogging is regarded as lawful (noting the recorded revocation with expiry for use of 31 May 2021 and indoor-use-only approval);
- (c) any assessment made by NIEA of drift or run-off of cypermethrin into Carlingford Lough from the quayside;
- (d) all records of pesticide or biocide application at the harbour estate held by NIEA for the past 24 months.

#### **Item 5 — Carlingford Lough: competent-authority assessment**

Question put to WHA: As a competent authority, has the risk that a fire or leachate escape could damage the protected site been assessed, and what is the residual liability under the Environmental Liability Regulations (NI) 2009 if the operator cannot meet remediation costs? (John Kerr, Q8)

WHA's answer: WHA recognises the environmental importance of Carlingford Lough and takes its responsibilities seriously. The established environmental principle is that the operator responsible for an activity is primarily responsible for managing and meeting the costs of any environmental impact arising from it. NIEA is the relevant environmental regulator.

The information now requested from NIEA is:

- (a) any assessment by NIEA of the risk that a fire, leachate or contaminated-firewater escape from the stored waste could damage the Carlingford Lough SPA / Ramsar site / ASSI;

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- (b) any assessment under the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 relating to the storage;
- (c) NIEA's assessment of residual liability under the Environmental Liability Regulations (NI) 2009 in the event the operator cannot meet remediation costs;
- (d) any correspondence between NIEA and the Loughs Agency or NIEA and WHA concerning environmental risk to the Lough from the storage.

#### **Item 6 — Fire prevention plan held under the Waste Management Licence**

Question put to WHA: Has the Authority obtained the operator's fire prevention plan and fire risk assessment for the stored material? (John Kerr, Q5 and Q6)

WHA's answer: WHA assesses fire and operational risk as part of its oversight... However, the operator is responsible for maintaining appropriate fire prevention, emergency response and regulatory compliance arrangements in accordance with its Waste Management Licence.

The information now requested from NIEA is:

- (a) a copy of the operator's fire prevention plan and supporting fire risk assessment for the stored RDF/SRF, as held by NIEA on the Waste Management Licence file;
- (b) any NIEA correspondence, inspection note or advice concerning self-heating, fire risk or firewater management at the Warrenpoint estate since 1 January 2025.

#### **Item 7 — Environmental remediation cost recovery (DAERA/26-295)**

Question put to WHA: DAERA has withheld information relating to 'environmental remediation cost recovery' at the Port on commercial confidentiality grounds. Will WHA confirm whether any financial provision, bond or escrow is held against remediation costs, and disclose its value? (Anne Blaney / RTTP, Q15; ref DAERA EIR refusal DAERA/26-295, regulation 12(5)(e))

WHA's answer: It would not be appropriate to discuss financial provisions, bonds, escrow arrangements, remediation cost recovery or monetary values... Any financial provision required under the waste licensing regime is a matter for the operator and the environmental regulator. WHA's position is that Re-Gen is responsible for its own operations.

The information now requested from NIEA is:

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- (a) confirmation whether any financial provision, bond or escrow is held against environmental remediation costs arising from waste storage at the Port, and its value (see also Item 3 above);
- (b) a fresh consideration of the information withheld under DAERA/26-295, applying the regulation 12(2) presumption in favour of disclosure and having regard to Decision Notice IC-393464-G2Y2;
- (c) the public-interest balancing exercise carried out when regulation 12(5)(e) was applied to the 'environmental remediation cost recovery' information;
- (d) all correspondence between DAERA / NIEA and Re-Gen Waste Ltd or WHA concerning remediation cost recovery or financial provision since 1 January 2023.

#### Form and statutory basis

- This is a request for environmental information under the Environmental Information Regulations 2004. Please respond as soon as possible and in any event within 20 working days (regulation 5(2)).
- The information sought is environmental information within regulation 2(1), including the state of the elements of the environment and factors, substances, measures and activities affecting or protecting them.
- Regulation 12(2) requires the presumption in favour of disclosure to be applied. If any exception is relied upon, please identify it, set out the public-interest balancing exercise in writing, and disclose all information not properly caught by that exception.
- Where information is not held, please confirm that expressly; if it is held by another public authority, please advise or transfer the request.
- If any part is refused, please treat this letter as a request for internal review, and confirm my right of appeal to the Information Commissioner.

As explained in the information sheet enclosed with the acknowledgement letter, under certain conditions, the Department has the right to refuse to respond to a request for information. Under Regulation 12(4)(b) of the EIR, the Department may refuse to comply with a request for information, where it is considered to be manifestly unreasonable.

The Department considers your request to be manifestly unreasonable on the grounds of diversion of resources. The Department has always accepted a greater burden when responding to requests for environmental information than other information, however, in this instance, it considers complying with this request to be overly

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burdensome, in so far as it will divert the existing resources available to the department to such an extent that the delivery of its public services would be affected.

The Department has determined that the cost to comply with your request to be over **£4,044**, a breakdown of how this figure was reached is in the table below:

| Number of potential records identified | Time to review each record and extract information | Time taken @ £25/hr of staff time | Total  |
|----------------------------------------|----------------------------------------------------|-----------------------------------|--------|
| 1941 records                           | 1941 x 5 minutes<br>= 9705 minutes                 | 9705 / 60 =<br>162 Hours x £25=   | £4,044 |

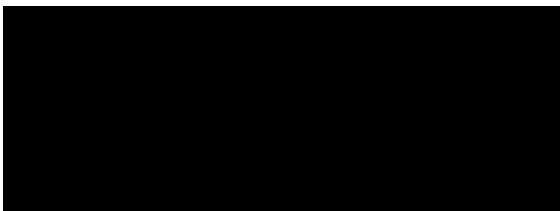
In these instances, the Department is required to consider the public interest in complying with the request. A Public Interest Test has been conducted and is attached as **Annex 1**.

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 Internal Review Section either by e-mailing [daera.informationmanager@daera-ni.gov.uk](mailto: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,



**NIEA Waste Industrial Pollution, Regulation and Enforcement Division**

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