

DAERA/26-504: Public Interest Test (PIT) - ANNEX C

Assessment of EIR request from requester

Subject of public interest test

Legal advice, legal analysis and related communications concerning fishing rights on Lough Neagh.

Exceptions being considered

Regulation 12(5)(b) – Course of Justice and Legal Professional Privilege

Regulation 12(5)(b) allows a public authority to refuse disclosure where it 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. The information identified comprises legal advice, legal analysis and communications created for the purpose of obtaining and receiving legal advice concerning fishing rights on Lough Neagh.

Reasons for Disclosure:

- i. Regulation 12(2) establishes a presumption in favour of disclosure.
- ii. Disclosure would promote openness and transparency in relation to the Department's consideration of fishing rights issues on Lough Neagh.
- iii. Disclosure would contribute to public understanding of the basis upon which the Department has considered matters relating to recreational angling and fishing rights.
- iv. Disclosure would support accountability and public confidence in decision-making

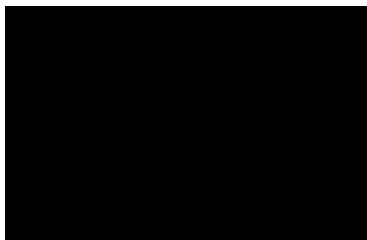
Reasons against Disclosure:

- i. There is a strong public interest in protecting legal professional privilege.
- ii. Public authorities must be able to obtain and receive full, frank and candid legal advice to support effective decision-making.
- iii. Disclosure would undermine the confidentiality of communications between legal advisers and their clients.
- iv. The fishing rights issues relating to Lough Neagh have been the subject of legal dispute and court proceedings, and disclosure could adversely affect the course of justice.
- v. Disclosure would be likely to prejudice the Department's ability to obtain legal advice on the same or related matters in the future.
- vi. There is a recognised public interest in maintaining the proper administration of justice and preserving the confidentiality of legal advice

Conclusion:

The Department recognises the presumption in favour of disclosure and the public interest in openness and transparency. However, having considered the nature of the information withheld, the importance of preserving legal professional privilege, and the potential adverse effect disclosure would have on the course of justice and the Department's ability to obtain and receive candid legal advice, the Department considers that the public interest in maintaining the exception outweighs the public interest in disclosure.

The information is therefore withheld under Regulation 12(5)(b) of the Environmental Information Regulations 2004



DAERA Marine & Fisheries Division