

Public Interest Test – EIR 2004

Agricultural & Environmental Schemes Division (AESD)

Reference Number – DAERA/26-493

Requested Information

In the request received the requester sought the following information:

1. **Policy and Criteria Documents:** Any internal guidance, policy documents, or standard operating procedures used by DAERA staff to identify, categorise, and select Category 1 farm business IDs for deactivation due to dormancy.
2. **Notification and Appeal Processes:** Any documents outlining the internal procedures for notifying affected individuals, and the formal process or criteria for appealing/reversing a deactivation.
3. **Internal Communications:** Correspondence, minutes of meetings, or briefing notes from January 2023 to the present date regarding the impact of this culling exercise on farmers who do not claim area-based subsidies but remain active (e.g., arable farmers or those managing land for rural planning/PPS 21 purposes).

Exemption / Exception under consideration

EIR Regulation 13 – Personal Information

EIR Regulation 12(3) – Personal Information

EIR Regulation 12(4)(e) – Internal Communications

EIR Regulation 12(5)(b) – The course of justice and inquiries exception i.e. Legal Professional Privilege.

Reasons why the public interest would favour disclosure:

- Regulation 12(2) requires DAERA to apply a presumption in favour of disclosure
- Public interest in transparency in the work of the Department;
- DAERA's policy to be as open and transparent as possible in relation to its functions and activities;
- Public interest in improving understanding of the process by which a decision was reached and having access to information on which decisions were made to enhance accountability; and

Reasons why the public interest would favour withholding:

EIR Regulations 12(3) and 13 – Personal Information.

The redacted information constitutes third party personal data within the meaning of the Data Protection Act 2018 (DPA). A public authority may only release third-party personal data if to do so would be fair, lawful and would meet the conditions in Schedule 2, 3 or 4 of the DPA. The Department may not disclose personal information to the public in contravention of any of the data protection principles (Article 5(1) General Data Protection Regulation or sections 34(1) and 85(1) DPA) and must consider all consequences of disclosure in each case.

The information provided has therefore been redacted under the exception provided under EIR by **Regulation 12(3) & 13 Personal Information**.

EIR Regulation 12(4)(e) – Internal Communications

Some information has been withheld from the requester. This exception has been engaged to allow for a safe space for the Department and staff to think privately when reaching decisions and also to protect the Department's internal decision-making processes. Final versions of the Department's policy and the associated "Lines to Take" have been provided to the requester as part of the final response issued.

EIR Regulation 12(5)(b) – Confidentiality of Proceedings

Some information has been withheld from the requester. In addition to and in support of Regulation 12(4)(e), this exception has been engaged as disclosure of the information would adversely affect the confidentiality of proceedings and allows the Department to consider matters that are within its' jurisdictional power.

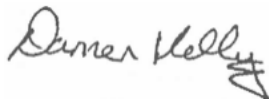
Conclusion

Following the consideration of the Public Interest Test, the Department has decided that, on balance, the public interest in maintaining the exemptions engaged outweighs the public interest in disclosure, given that disclosure could:

- Contravene the UK GDPR or the DPA 2018 as Regulations 12(3) and 13 prohibits disclosing third party personal data. I am satisfied that the public interest is best served by withholding this information.
- Disclosure would contravene UK GDPR principle (a) because there is no lawful basis for processing.
- Potentially damage the integrity of the policy-making process which would undermine the process and result in less well considered or effective policies.
- Government needs a safe space to consider options in private, away from

public interference.

- Civil Servants and the Ministers involved would be exposed to an unhelpful degree of scrutiny, preventing them from carrying out their duties effectively.
- Disclosure of information would inhibit the future exchange of free and frank discussions going forward and lead to poorer decision-making.
- Prevent the ability to obtain full and frank access to legal advice.
- Damage safeguarding and openness in communications between the Department and its' legal advisers which is required to ensure access to full and frank legal advice and is fundamental to the administration of business.



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