

ANNEX B

Public Interest Test – FOI

Reference Number – DAERA/26-568

Requested Information

- Any guidance or instructions issued to managers, HR staff, payroll staff or decision-makers concerning the calculation or application of salary deductions arising from action short of strike;
- Any internal discussions, assessments, reports, business cases, governance papers, recommendations, briefing papers or decision-making records supporting the adoption of a 25% deduction;
- Any centrally issued correspondence, instructions or guidance concerning the implementation of salary deductions in connection with the current industrial action.

Exception under consideration

Section 42 – Legal Professional Privilege

Reasons why the public interest would favour disclosure:

- The Freedom of Information Act gives a right of access to information that the Department holds; and
- There is a general public interest in promoting transparency, accountability, public understanding and involvement in the democratic process.

Reasons why the public interest would favour withholding:

- The information sought and provided to DAERA officials was done so by Departmental Solicitors' Office (DSO) on the basis that it was solely to inform and guide policy decisions. Disclosure of this advice, which was provided in confidence, would damage DAERA's communications and relationship with DSO.
- Disclosure would also compromise DAERA's ability to seek full and frank legal advice, if DSO believed that advice would be routinely disclosed and made public;
- The inability to keep legal advice confidential would impede DAERA's ability to take robust and effective decisions.

Conclusion

Following consideration of the Public Interest Test the Department has decided to exempt the information from disclosure, under Section 42, as this is necessary to protect professional legal privilege of solicitors advising policy officials.

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