

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/26-603 - Environmental Information Regulations 2004 (EIR)

Request Details:

Water samples results, follow up monitoring and copies of reports for multiple water pollution incidents within the Kellswater catchment.

Brief description of the Personal Data falling within the scope of the request

Personal data relates to the naming of junior staff in reports requested and the identification of members of the public through Grid reference locations, maps or photography.

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.

3. BALANCING

Potential likely harm or distress may be caused by disclosure.

Junior staff (below G7) may be distressed by disclosure and recent incidents or DAERA staff being cited by name in published reports containing information garnered via FOI/EIR may be deemed to cause harm. Members of the public may be distressed or harmed if details

relating to location are released through identifiable items such as grid references, maps, or photography.

Whether the information has been or remains in the public domain.

The personal data is not realistically accessible to the public or only known to the requester.

The reasonable expectations of the individuals, taking into account the circumstances in which the data was obtained and the data subject's expectations both at the time the information was collected and at the time of this request.

The individuals provided their information with the expectation that it would only be for internal circulation and not to the world at large. No specific assurances were provided or privacy notice issued.

Had the data subject expressed any views on the impact of disclosure? Have they objected to disclosure?

Data subject has not expressed any views or objected.

CONCLUSION

Having considered all of the information contained within this test, the Department has established that, on balance, there is a no lawful basis for the disclosure of personal data falling within the scope of the request.

[REDACTED]

[REDACTED]