

Public Interest Test – EIR

Reference Number – DAERA/26-706

Requested Information

I am writing to request an update on the current position regarding the civil liability of those responsible for the illegal waste disposal at the Mobuoy site. In particular, I would be grateful to know whether the NIEA, DAERA, or any other public authority is pursuing, considering, or supporting civil proceedings to recover remediation costs from City Industrial Waste Ltd, its directors, associated parties, landowners, insurers, or any other persons or entities that may bear legal responsibility for the contamination. Given the insolvency of City Industrial Waste Ltd and the potentially substantial public cost of remediation, I would appreciate any information that can be provided regarding efforts to establish liability and secure financial contributions from those responsible for the environmental damage.

Exemption / Exception under consideration

The following exception, as set out in the Environmental Information Regulations 2004, is under consideration:

Regulation 12 (5)(b): disclosure of the information 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.

Reasons why the public interest would favour disclosure:

- Regulation 12(2) of the Environmental Information Regulations 2004 establishes a presumption in favour of disclosure, reflecting the principle that environmental information should be made available unless the public interest in maintaining an exception clearly outweighs the public interest in disclosure;
- There is a strong public interest in openness, transparency and accountability in how DAERA and the NIEA exercise their statutory functions, including the investigation and enforcement of environmental legislation;
- Disclosure would promote public understanding and confidence in the fairness, effectiveness and integrity of regulatory and enforcement action, including investigations relating to waste management, illegal dumping and other suspected criminal activity affecting the environment;
- There is significant public interest in access to information relating to environmental matters, particularly where those matters concern environmental harm, pollution, and activities that may adversely affect the environment or human health;
- Disclosure would support public understanding of the Department's role in environmental compliance and enforcement, particularly in relation to waste management, illegal dumping and other environmental offences, thereby enhancing confidence in the effectiveness and integrity of regulatory action, while contributing to informed public debate, transparency, participation and oversight underpinning the Environment Information Regulations;

- There is a strong public interest in ensuring that public resources are used effectively and that the public purse is protected.

Reasons why the public interest would favour withholding:

- There is a strong public interest in preserving legal professional privilege (LPP), which is a fundamental principle underpinning the administration of justice, enabling officials and legal advisers to discuss legal risks, strengths, weaknesses and options candidly;
- Material relates to the Department's consideration of its statutory powers, liabilities and enforcement options under environmental legislation. These matters remain live and continue to inform decision making, therefore disclosure could impact future action or actions;
- Disclosure at this stage could prejudice or adversely impact the Department's position in relation to potential enforcement action, cost recovery, litigation or other future legal proceedings and judicial decision making;
- There is a strong public interest in ensuring that any future proceedings are conducted fairly and effectively, without the risk of interference or undue influence arising from premature disclosure;
- The Department has a responsibility to protect information obtained during investigations, particularly where such information may be relevant to potential enforcement action or future proceedings;
- In these circumstances, maintaining confidentiality and LPP supports the proper administration of justice and the effectiveness and fairness of any future proceedings. The public interest in maintaining this exception therefore outweighs the public interest in disclosure.

Conclusion

Following consideration of the Public Interest Test as required under Regulation 12(1)(b) of the Environmental Information Regulations 2004, the Department has determined that the information requested which falls within the scope of exception 12(5)(b) should not be disclosed.

While there is a recognised public interest in transparency and accountability in environmental enforcement, it is considered that, in this case, disclosure would be likely to have an adverse effect on the course of justice.

Having balanced the competing public interests, the Department is satisfied that the public interest in maintaining the exception outweighs the public interest in disclosure. Accordingly, the information falling within Regulation 12(5)(b) will be withheld.



Environmental Crime Unit