LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/26-747 - Environmental Information Regulations 2004 (EIR)

Request Details: WR 8/26/0074 incident report as requested during clarification of NIEA investigative process to pollution incident

Brief description of the Personal Data falling within the Scope of the Request

Personal data of which the requester is not the data subject is also held within this report. This includes names, addresses and phone numbers of NIEA staff and members of the public.

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 are 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.

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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.

CONCLUSION

Having considered all the information contained within this test, the Department has established that, on balance, no lawful basis exists for the disclosure of third-party personal data falling within the scope of the request of which the requester is not the data subject.

[redacted]

[redacted]

Water Pollution Response and Enforcement Team

Water Catchment Unit