

## **EIR Request (received 06 January 2023) - Reference: DFI/2023-0005**

I am writing to request information under the Freedom of Information Act. In order to assist you with this request, I am outlining my query as specifically as possible.

My request is as follows. Please provide:

*A copy or copies of all monitoring reports held by the department in relation to sand dredging at Lough Neagh during July 2021 and August 2021.*

## **Response (issued 03 February 2023)**

Thank you for your email of 06 January 2023 requesting the release of information from the Department. I have considered your request and provided a response below.

In considering your request on behalf of the Department I have determined that the information requested falls under the aegis of the Environmental Information Regulations 2004. EIR gives rights of public access to environmental information held by public authorities.

A guide explaining the Environmental Information Regulations can be found at:-

<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/what-are-the-eir/>

In response to your request, I can confirm that the Department does hold information that meets the parameters of your request, however I have determined that some of it is not suitable for release.

The majority of the information being withheld is considered commercially confidential. The information being sought has the necessary Common Law quality of confidence, as it is not trivial, nor is it in the public domain. This information, if provided in the format requested, would allow the public (especially economic competitors of the Lough Neagh Sand Traders) to identify the current commercial rates/costs for carrying out these activities.

This would have the effect of creating a competitive advantage for competitors and would adversely affect the current contractor in any further contract tendering. Release would undermine the LNST's reasonable (and actionable) expectation of confidentiality. The confidentiality protects the LNST's legitimate economic interest. The commercial information being sought is still current as it provides the basis for future tender submissions by the

contractor. There is a need to protect the commercial bargaining position of the contractor in future competitive tenders for mineral products.

I am satisfied that the public interest, in this case, and at this time, favours keeping this information from disclosure. This commercially sensitive information is, therefore, withheld under the exception from the general public right of access to environmental information provided by Regulation 12(5)(e): confidentiality of commercial or industrial 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) UK 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. I am satisfied that the public interest is best served by withholding this information.

The remaining information deemed suitable for release is attached.

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