

**EIR Request (received 13 July 2022, clarified 29 July 2022) - Reference:  
DFI/2022-0221**

I am writing to request information under the Environmental Information Regulations statutory instrument (2004). In order to assist you with this request, I am outlining my query as specifically as possible.

My request is as follows. Please provide:

1. All monitoring reports held by the department in relation to sand dredging at Lough Neagh since January 2021 [amended in clarification email to between January 2021 and January 2022]; and
2. All correspondence with sand trader companies and other firms involved in sand extraction at Lough Neagh concerning breaches of {the} operating restrictions introduced {by the department} in January 2021 [amended in clarification to between January 2021 and January 2022].

**Response (issued 15 August 2022)**

Thank you for your further e-mail dated 29 July providing clarity and amending your request. Your amended request is now -

1. *All monitoring reports held by the department in relation to sand dredging at Lough Neagh between January 2021 and January 2022; and*
2. *All correspondence with sand trader companies and other firms involved in sand extraction at Lough Neagh concerning breaches of the operating restrictions introduced by the department between January 2021 and January 2022.*

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, as opposed to the FOI Act 2000. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information. EIR gives rights of public access 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 relating to your request. However, I regret to inform you that, as currently worded, the Department will be unable to comply with your request because of the burden that it would place on staff resources.

The Environmental Information Regulations established a general, public right of access to environmental information held by public authorities, where that is in the public interest. Whilst transparency is clearly in the public interest, the legislation also recognised that there would be occasions where it would be in the public interest to refuse requests.

The Environmental Information Regulations, unlike FOI, did not specify a fixed amount of staff costs that would represent an appropriate limit (£600 for Government Departments, set at £25 per hour of staff time), beyond which public authorities need not go to answer requests. Instead the legislation provides an exception from the general presumption in favour of disclosure, at Regulation 12(4)(b), when the burden placed on staff resources is considered to be manifestly unreasonable. The Information Commissioner's Office has made clear that, while EIR does not specify a reasonable cost of compliance, Parliament had clearly identified what would be a reasonable cost in setting the appropriate limit for FOI.

We have carried out a sample exercise to determine whether the Department can comply with your request, without placing an unnecessary burden on staff resources. I regret to inform you that this sample has shown that staff time required to comply would be well in excess of the appropriate limit set out under FOI. I have carried out a test of the public interest in this case, and am satisfied that the diversion of staff resources required is so great that the Department must refuse your request. The Regulation 12(4)(b): manifestly unreasonable exception is clearly engaged.