

Regulation 12(4)(b) of the EIR – manifestly unreasonable

Regulation 12(4)(b) allows refusal where a request is manifestly unreasonable. This includes where the cost or burden would be clearly excessive. There is no statutory cost limit under the EIR. We therefore considered the work needed to identify, locate, retrieve and extract the information and any disruption to core functions.

We used Freedom of Information Act 2000 Section 12 costing concepts as a guide to evidence the burden; while recognising they are not determinative for the EIR. Having considered refinement and any possible advice and assistance that could be provided under Regulation 9, we have concluded that the burden remains clearly excessive. We then applied the public interest test and, on balance, consider that maintaining the exception outweighs disclosure.

NI Water seeks to rely on this exception to the extent that:

- As the request is not timebound, it would require an examination of the maintenance and condition of all water treatments sites since the establishment of NI Water. Therefore, the requested information spans 19 years of various types of documentation.
- Retrieving, reviewing, and potentially redacting this volume of material would require significant time dedicated by specialist staff, disproportionate resources and time, diverting staff from core statutory duties.
- The ICO guidance confirms that a request may be considered manifestly unreasonable if the burden of compliance is clearly excessive in relation to the public interest in disclosure.

I have considered whether the public interest in disclosure outweighs the interest in maintaining the exception.

Disclosure would facilitate transparency in NI Water's performance and accountability for public expenditure.

Against this, I have considered the cost of complying with the request would exceed the “appropriate limit” of 18 hours. Based on the foregoing, and the application of £25 per hour for staff regardless of grade, full compliance, based on a test extrapolation, would take exceed both the appropriate time limit and therefore also the reasonable cost limit of £450.

The significant resource burden would impact NI Water’s ability to deliver essential services, and the same objectives can be met through less burdensome means.

In summary, NI Water considers the request manifestly unreasonable due to the clearly excessive burden it would impose. The EIR contain no statutory cost limit. NI Water therefore analysed the work needed to identify, locate, retrieve and extract the information and the disruption to core functions.

We have weighed the public interest factors and, on balance, maintaining the exception outweighs disclosure.