

**REFERENCE**

2425285

**RELEASE DATE**

September 2024

**SUBJECT**

Data relating to Lough Neagh

**REQUESTS & RESPONSES**

- 1. Water quality data for tributaries to the lough, ideally sampled within 1km of the lough.**

The Water Management Unit (WMU), within the Northern Ireland Environment Agency (NIEA), under the Water (Northern Ireland) Order 1999, helps to protect the aquatic environment through a number of activities including monitoring water quality and NI Water would recommend you contact the NIEA for more information about water quality data for tributaries to the lough.

Northern Ireland Environment Agency  
17 Antrim Road  
Tonagh,  
Lisburn  
County Antrim  
BT28 3AL  
Email: [nieainfo@daera-ni.gov.uk](mailto:nieainfo@daera-ni.gov.uk)  
Telephone: 0300 200 7856

NI Water do retain specific water quality data for Lough Neagh, but this is particular to raw water abstraction points for our Water Treatment Works on the Lough.

NI Water use this raw water intake data and data from the Northern Ireland Environment Agency, to understand, design, build, operate and optimise robust evidence-based treatment of Lough Neagh water.

NI Water are also undertaking some preliminary hydraulic modelling studies in conjunction with an external consultant, which include specific water quality datasets. On receipt of your request, we liaised with relevant parties to ascertain if it was practical to consider this data within the scope of question one of your request, but I am advised that this would be considered manifestly unreasonable, i.e. the time, resources and costs that would be incurred, would make compliance exempt under Regulation 12(4)(b) - manifestly unreasonable.

The Information Commissioner's Office considers that information requested should be released unless the public interest weighs in favour of withholding such information.

There is a public interest in the information requested being released because this may:-

- promote accountability for and transparency of a decision-making process;
- enable third parties to access information which may help them to challenge a decision made, or an action taken by NI Water; and
- clarify incomplete information.

In assessing the case against disclosure:-

The Information Commissioner's Office (ICO) has acknowledged that the amount of time required to respond to a request can make it manifestly unreasonable. However, the ICO also considers that Regulation 12(4)(b) of the Environmental Information Regulations does not operate as an equivalent to Section 12 (Cost prohibitive) of the Freedom of Information Act (FOIA). This is because Section 12 involves a straight calculation of the time required to respond to a request and, under the FOIA, such an approach allows a Public Authority to consider the request in isolation from other factors including their ability to meet the request or the extent to which the time required to meet the request would detract from other functions.

The Commissioner considers and NI Water accepts that Regulation 12(4)(b) of the Regulations operates quite differently, in that there is no appropriate limit to act as a cut-off point when responding to requests.

The ICO requires that the request be manifestly unreasonable, and not just the time required for complying with it. In practice, Regulation 12(4)(b) of the Regulations requires Public Authorities to consider a request for environmental information more broadly, taking into account the time to respond to the request as one factor to be considered along with others, such as the interference with the normal conduct of the Public Authority's activities, or whether compliance entails a significant diversion of resources from other functions.

To allow NI Water to determine whether Regulation 12(4)(b) of the Environmental Information Regulations (Manifestly Unreasonable) would provide a robust exception and would be correct in this instance, we have considered the following:-

- Time for compliance
- The cost of compliance
- Whether compliance would equate to a significant diversion of resources
- Whether compliance would interfere with the normal conduct of NI Water's activities

#### *Time for compliance*

To fully comply with this element of your information access request i.e. determining whether NI Water or a supplier working to NI Water holds the information, locating the information, or a document which may contain the information, retrieving the information, or a document which may contain the information and extracting the information from a document containing it, would take NI Water and our consultancy team over 40 hours and, as such, NI Water would deem compliance as taking an unreasonable amount of time.

### Cost of compliance

In recognising that, under the Regulations, there is no statutory equivalent to the "appropriate limit" under the Freedom of Information Act, in our deliberations,

NI Water has also been able to draw upon guidance from the Information Commissioner's Office which states a public authority may only legitimately refuse requests for information on fees grounds under the Act if it would take more than 40 hours and exceed £1,000 (40 hours X £25 per hour).

### Significant diversion of resources and Interference with the normal conduct of NI Water's activities

For NI Water to provide you with the requested information would necessitate the specialised knowledge and dedicated resources of both NI Water's Hydraulic Modeling and Consultancy Team for an extended period of time and both these teams are currently heavily involved in large, time-sensitive projects. As I hope you can appreciate from the above, compliance with the request as it stands would divert resources away from the provision of public services for which NI Water is mandated.

In its 'Introduction to EIR Exceptions' the Information Commissioner's Office states:-

*"It is important to clarify that it is the public interest, not private interests, that are to be considered, and that public interest is not equivalent to simply what the public find interesting".*

In applying the public interest test under the Regulations, NI Water has reached the view, given the nature of the information requested, the timing of the request, and the reasons detailed above, that the public interest in withholding the information is greater than the public interest in disclosing the information.

**2. WFD physico-chemical parameters: temperature, dissolved oxygen (mg/l and %), pH, orthophosphate, total phosphorus, nitrate, alkalinity, suspended solids.**

As per NI Water's answer to Q1. above, our Lough Neagh water quality sampling is specific to raw water abstraction points for our Water Treatment Works on the Lough. NI Water do not retain Water Framework Directive (WFD) Physio-chemical data for Lough Neagh other than specific to those testing points.

As such disclosure of these parameters for the wider Lough is considered exempt under Regulation 12(4)(a) (Information not held) refers.

All exceptions under the Regulations are qualified and so, in deciding whether or not to disclose the requested information, NI Water must consider the public interest. However, this is not possible where the information is not held.

For more information NI Water would recommend you contact the NIEA.

**3. In-lake water quality data. WFD physico-chemical parameters: temperature, dissolved oxygen (mg/l and %), pH, orthophosphate, total phosphorus, nitrate, chlorophyll, alkalinity, suspended solids/turbidity, salinity, hardness (mg/l of CaCO<sub>3</sub>), depth, conductivity.**

As per NI Water's answer to Q1. above, our in-lake Lough Neagh water quality sampling is specific to raw water abstraction points for our Water Treatment Works on the Lough. NI Water do not retain in-lake water quality data for Lough Neagh other than specific to those testing points.

As such disclosure of these parameters for the wider Lough is considered exempt under Regulation 12(4)(a) (Information not held), Annex A attached refers.

For more information NI Water would recommend you contact the NIEA.

#### **4. Algae species/ cyanobacteria species**

As per NI Water's answer to Q1. above, our in-lake Lough Neagh water quality sampling is specific to raw water abstraction points for our Water Treatment Works on the Lough. NI Water do not retain in-lake algae / cyanobacteria data for Lough Neagh other than specific to those testing points.

As such wider algae species/cyanobacteria species monitoring results is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the NIEA.

#### **5. In-lake depth profiles (temperature/dissolved oxygen).**

NI Water do not retain in-lake depth profiles (temperature/dissolved oxygen) for wider Lough Neagh, only specific to raw water abstraction points for our Water Treatment Works on the Lough. As such wider in-lake depth profiles are considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the NIEA.

#### **6. Lake levels for Lough Neagh**

NI Water do not retain lake levels for Lough Neagh. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the Department of Agriculture, Environment and Rural Affairs.

<https://www.daera-ni.gov.uk/contact>

#### **7. Direction of flow of water within the lake, including near bed flow.**

NI Water do not retain direction of flow of water within the lake (Lough Neagh), including near bed flow. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the Department of Agriculture, Environment and Rural Affairs.

<https://www.daera-ni.gov.uk/contact>

**8. Any in-lake sediment quality data - phosphorus and nitrogen.**

NI Water do not retain in-lake (Lough Neagh) sediment quality data. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the NIEA.

**9. Distribution of high-level substrates (e.g., rock, sand, clay) in lake, ideally in the form of a shapefile or map. Otherwise point data, or similar.**

NI Water do not retain in-lake (Lough Neagh) distribution of high-level substrates (e.g., rock, sand, clay) in lake, ideally in the form of a shapefile or map. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the NIEA.

**10. Weather data, ideally recorded within 1km of the lough (temperature/rainfall/wind speed)**

NI Water do not retain weather data recorded within 1km of the lough. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the Met Office.  
<https://www.metoffice.gov.uk/about-us/contact>

#### **11. Presence and abundance of zebra mussels in lake.**

NI Water have included zebra mussels in the risk assessment of Lough Neagh and therefore in the design and operation of Lough Neagh water treatment works. NI Water do not retain a detailed data set of the presence of zebra mussels in Lough Neagh. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the NIEA.

#### **12. Locations of any anthropogenic activity e.g., recreational boating and fishing, and the level of activity. Ideally heat maps. Otherwise point data, or similar.**

NI Water do not retain location details or heat maps of any anthropogenic activity e.g., recreational boating and fishing activity. As such this dataset is considered exempt under Regulation 12(4)(a) (Information not held). Annex A attached refers.

For more information NI Water would recommend you contact the Department of Agriculture, Environment and Rural Affairs.

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