Public Interest Test
REASONS FOR APPLYING SECTION 35 EXEMPTION

<table>
<tr><td>Ref No.</td><td colspan="4">FOI/2026-0262</td></tr>
<tr><td colspan="2">Information</td><td>Exemption Applied</td><td>Reasons for Disclosure</td><td>Reasons for Non-Disclosure</td></tr>
<tr><td>2.</td><td>Has the matter of EPA remedy and resolving the outstanding policy issues been mentioned in any correspondence and / or been an agenda item on meetings since the McCloud Remedy regulations a came into effect on October 1, 2023. If so, please provide the number of instances broken down by financial year and by whether the instance relates to correspondence or meeting.</td><td>Section 35 (1)(a) – Formulation and development of Government Policy</td><td>• To show compliance with the FOI Act by disclosing information held by the Department as a Public Authority;

• There is a general public interest in the accountability, openness and transparency of government, and to promote public understanding

• The Department recognises that the decisions Ministers make may have a significant impact on the lives of citizens and there is a public interest in their deliberations being transparent.</td><td>• Disclosure would weaken Ministers’ ability to discuss controversial and sensitive topics free from premature public scrutiny.

• Ministers must be able to discuss policy freely and frankly, exchange views on available options and understand their possible implications.

• The candour of all involved would be affected by their assessment of whether the content of the discussions will be disclosed prematurely.

• If discussions were routinely made public there is a risk that Ministers may feel inhibited from being frank and candid with one another. As a result the quality of debate underlying collective decision making would decline, leading to worse informed and poorer decision making.

• Internal guidance with respect to the matter of EPA remedy is actively being formulated and remains unfinalised. We seek to avoid premature disclosure of evolving policy which would risk misinterpretation or confusion. As the policy is still under development, the information is incomplete, speculative and subject to change.</td></tr>
<tr><td colspan="5">In balancing where the public interest lies, the Department has considered all the relevant factors in the public interest test and has reached the conclusion that the benefit to the public in applying the exemption outweighs the public interest in disclosure.

DECISION MAKER: Colette Heaney DATE: 08/06/2026</td></tr>
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