Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

Office of the Commissioner for Environmental Information

Annual Review 2025

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Foreword by the Commissioner for Environmental Information

The purpose of the Access to Information on the Environment (AIE) Regulations and regime is to enable members of the public to have timely and easy access to environmental information to assist those who want to participate in environmental decision-making to do so in an informed manner.

The AIE Regulations and AIE Directive are based on a presumption in favour of the release of environmental information. The role of our Office is to carry out independent reviews of decisions made by public authorities on requests for environmental information.

We have experienced a significant increase in appeals in recent years. This continued in 2025. We received 352 appeals by 3 December 2025, a 12.46% increase on the full year figure for 2024.

Like previous years, requests for information relating to forestry continue to dominate our work with approximately 66% of appeals to this Office relating to decisions of either the Department of Agriculture, Food and the Marine or Coillte.

While we received 352 appeals in 2025, we completed 295 appeals and, therefore, had 484 appeals on hand at the end of the year. Over 220 of the appeals on hand are from one person.

We issued 189 formal decisions in 2025. In our decisions we annulled just under 55% the public authority's decisions. Though still high it is a very welcome downward trend. The annulment rate in 2023 stood at just below 92% and fell in 2024 to just above 66%. Our aim is to continue to promote good decision making and dissemination of information by public authorities in the hope of reducing the need for requesters to appeal decisions.

I have consistently urged public authorities to properly resource and support their AIE functions particularly in terms of staffing, training and support for those working directly on AIE requests and other people in the organisation who deal with AIE requests.

I have also encouraged public authorities which possess environmental information to implement the widest possible range of options to proactively disseminate frequently requested material.

I firmly believe that proactive dissemination without the need for formal requests is the best way to deal with information requests and has the potential to reduce the administration burden placed on public authorities and cost to the taxpayer.

I would remind all public authorities of their duty to proactively disseminate relevant information as set out in the Aarhus Convention and in the AIE Directive. I want to acknowledge that we have seen progress by some public authorities, both in their decision making on AIE requests and in making information available. Examples include the Department of Agriculture, Food and the Marine, and Coillte both of which are increasingly making information available through online portals.

I have also, in the past, asked for the cooperation of requesters who are seeking information to use the process for the purpose that it was intended, and to cooperate with the public authority and be reasonable in their

requests, their conduct and in their dealings with staff in public authorities.

A public authority may refuse to make environmental information available where the request is manifestly unreasonable having regard to the volume or range of information sought. In cases where a requester sends multiple communications to a public authority over a short time, there are certain circumstances where some of these separate communications may reasonably be considered to constitute a single request, or a smaller number of requests.

The Minister's Guidance states that article 9(2) of the AIE Regulations clarifies that a public authority may refuse to make information available if the request is considered unreasonable.

Both public authorities and requesters should seek to liaise constructively with a view to fully processing the request as efficiently as possible.

Where there is a need to appeal, early and proper engagement with OCEI investigators to achieve informal solutions to appeals wherever possible is crucial. This has proved to be beneficial in recent years. We are committed to finding informal solutions to appeals. A number of public authorities and requesters have fully engaged with staff of this Office to deliver outcomes, through this process that are beneficial to both. This continued engagement is most welcome.

As I have mentioned in previous reviews, the Department of Climate, Energy and the Environment has indicated for a number of years now an intention to amend the AIE Regulations. We have had considerable engagement with the Department on the proposed changes. We have set out to the Department the types of measures that we believe would have the effect of improving the effectiveness of the AIE regime in Ireland. In November 2023, the Department published a draft version of amended and consolidated AIE Regulations. One change to the Regulations the Department has indicated it proposes to make is to require this Office to make decisions, "in a timely manner, and insofar as practicable, not later than four months after the date of the receipt by the Commissioner of the application for the review concerned."

We are committed to making decisions in as timely a manner as possible. We regularly review our processes and procedures in order to improve the timeliness of our decision-making. I accept that decisions are not being issued as quickly as we or the parties to the review would like. We are taking steps to reduce the amount of time taken to issue decisions.

However, regardless of the steps taken, the amount of resources applied or the number of staff available, I believe the setting of a timeline in statute is inappropriate. Furthermore, in many cases it is simply not possible to issue a decision within four months while at the same time adhering to the requirements of fair procedure imposed by Irish law. I remain hopeful that the final version of the regulations will not include this flawed and inappropriate provision.

Finally, I would like to thank all of our stakeholders including appellants, public authorities and the Department of Climate, Energy and the Environment for their cooperation throughout the year. In particular, I want to record my thanks to all the staff of the OCEI, under the leadership of Senior Investigators Julie O'Leary and Gemma Farrell for their commitment and hard work, in delivering a high-quality service.

We remain committed to providing a fair, independent, quality and effective service that supports appropriate access to environmental information.

Ger Deering
Commissioner for Environmental Information

May 2026

Update from the Director General

I would like to commend our staff for their hard work during the year in meeting key strategic objectives of delivering comprehensive, clear and well-grounded decisions on appeals to OCEI and promoting a greater understanding in public authorities on access to information on the environment.

In December 2025, our Office was the subject of a random cybersecurity attack on some of its IT systems, including the electronic case management system OCEI used to carry out its work. Our immediate priorities were to protect personal data and to restore our services safely. Both of these objectives have been met and I am proud of the resilience of our staff in meeting the challenges and quickly restoring our services.

Due to the loss of access to our case management system our casework is measured up until 3rd December 2025 only. It is evident from these statistics that demand for our services remained high and that it was a busy year in terms of numbers of appeals received, reviews completed and decisions made.

Our "corporate spine" supports the independence of the OCEI and provides necessary back office supports such as HR, ICT, Finance, Procurement, Facilities, Legal and Communications. This enables the team to concentrate on OCEI work.

Our Statement of Strategy - "Towards 2030" sets out our key objectives such as timely and well-reasoned decision-making, outreach, provision of up-to-date and accessible services; increasing our knowledge of environmental information law and best practice in other jurisdictions; and harnessing digital technology developments to support delivery of our strategy. I look forward to working with the OCEI team to implement this strategy.

Elaine Cassidy
Director General

Chapter 1:
The Year in Review

Chapter 1: The Year in Review

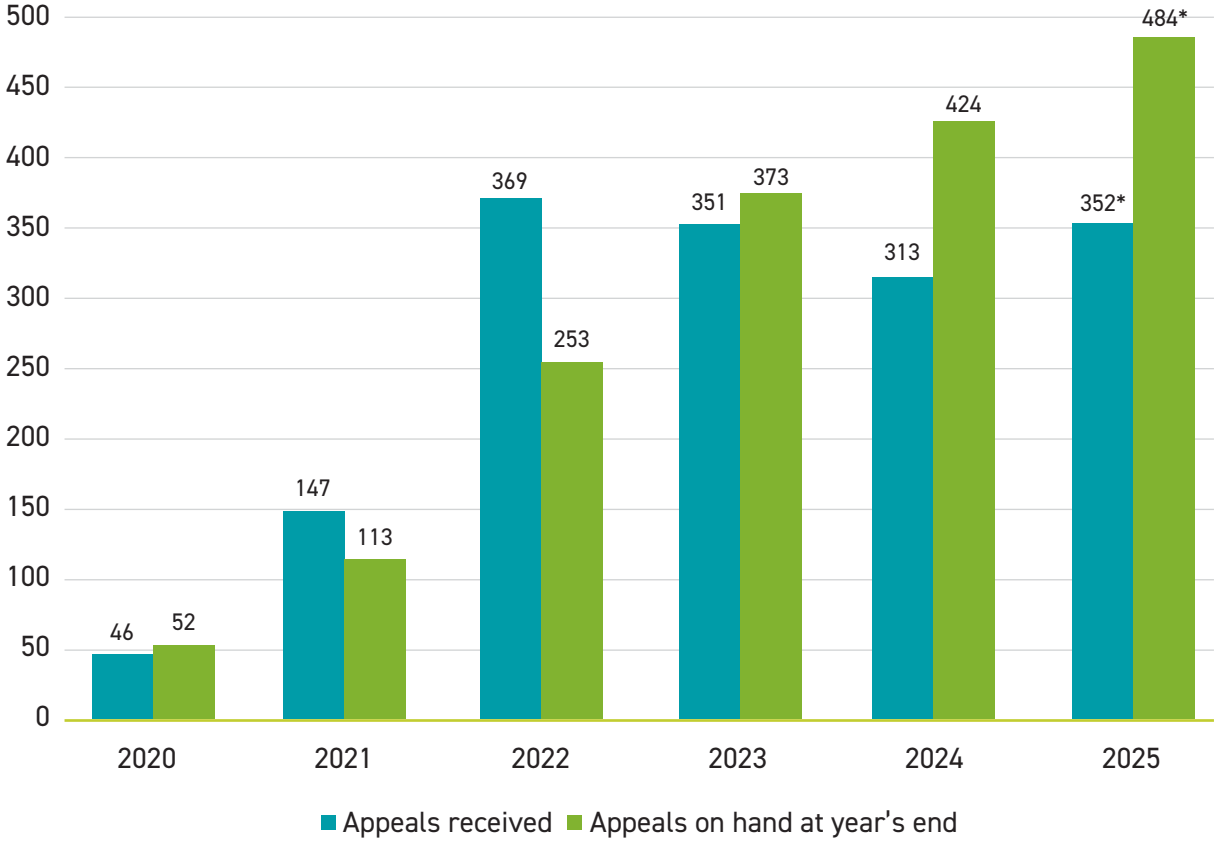
For the reasons set out in the Director General's Introduction the statistics in this the 2025 Annual Review are less comprehensive than previous reviews. This Review covers the period from 1 January to 3 December 2025. Statistics relating to the period from 3 December to 31 December will be incorporated into the 2026 Annual Review.

Appeals received in 2025

The charts below demonstrate the increase in appeals received by the OCEI in recent years. This included an unprecedented 151% increase in appeals received between 2021 and 2022. The number of appeals received plateaued in 2023 and that plateau was more or less maintained in 2024, with a moderate 10.38% decrease year on year. The number of appeals received has begun to grow again. By 3 December 2025, the OCEI received 352 appeals in 2025, a 12.46% increase on the full year figure for 2024, demonstrating the continuing high demand for our services.

The public authorities whose decisions we received the largest number of appeals in relation to were the Department of Agriculture, Food and the Marine and Coillte. Approximately 66% of appeals to this Office were against decisions of either the Department of Agriculture or Coillte. This is roughly in line with what we have seen in previous years.

Number of appeals received and on hand from 2020 to 2025



* As of 3 December 2025

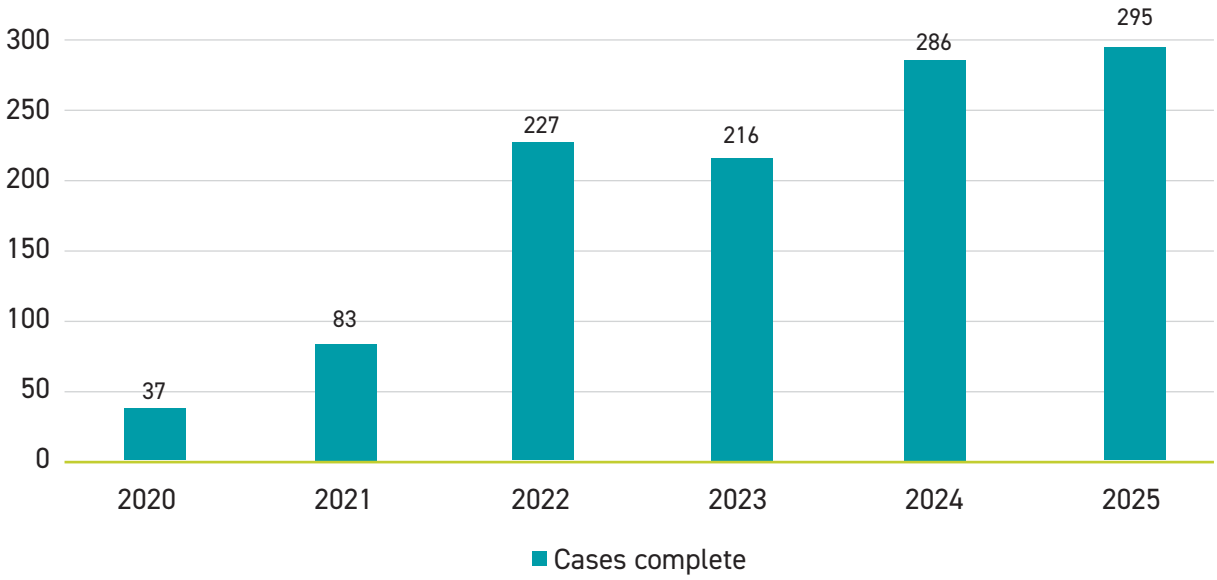
As of 3 December 2025, there were 484 appeals on hand awaiting a decision, representing the highest figure since the establishment of the OCEI. This reflects a 14.15% increase from 424 in 2024. The rate of growth in cases on hand has remained largely consistent year on year. In 2024, there were 424 appeals on hand awaiting a decision, up from 373 in 2023 – an increase of 13.67%. In order to meet the challenges posed by both the rising number of appeals received and the increasing number of appeals on hand awaiting decision, we are pleased to say that 6 new investigators joined the OCEI team during the course of 2025.

By virtue of our review function, our Office can only be aware of Access to Information on the Environment (AIE) requests that have been appealed to this Office, and not the vast majority of AIE requests made to public authorities which do not reach our Office. In the past, we have used the national AIE statistics compiled and published by the Department of the Environment, Communications and Climate to get a picture of the level of AIE requests made nationally. This allowed us to calculate the percentage of requests that are appealed to the OCEI on the basis that the appellant is dissatisfied with the decision of a public authority.

At the time of writing, the Department of Climate, Energy and the Environment has not yet completed the gathering and collating of the national AIE statistics. We are therefore not in a position to calculate the percentage of AIE requests that reached our Office. Previous years' statistics may be found at the following link. The national AIE statistics for 2025 will also be published here by the Department in due course: National AIE Statistics

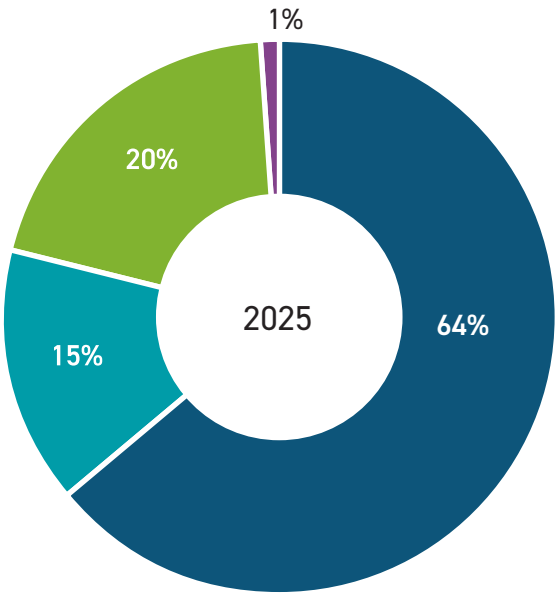
Appeal Outcomes

Number of cases completed



Breakdown of outcomes of cases completed in 2025

- Decision 64%
- Closed by Support Unit 15%
- Settled informally 20%
- Invalid 1%



As demonstrated from the graph above, 2025 saw the OCEI resolve a record number of appeals – with 295 cases completed. The second graph breaks down what those completed cases were made up of.

By way of background, upon receiving a valid appeal, we assess each case in order to identify the best possible resolution. We consider whether there is a reasonable prospect of informally settling the case, which means the case is resolved without the need for a formal binding decision. We report cases as "settled" in a number of instances, most commonly when the public authority takes steps that result in an appellant not requiring a formal binding decision (for example releasing further environmental information relevant to the request) and the appellant decides to not proceed with the review. A settlement can be reached at any stage of the investigation process prior to the issuing of a formal decision. Just over 20% of appeals were closed by way of a settlement in 2025, which represents a fall from 2024, where just over 26% of appeals were settled.

We continue to be encouraged by the willingness on the part of some public authorities and appellants to reach agreement on appeals that have been referred to our Office without the need for a formal decision to be issued. This frees up our limited resources so that we can focus on those reviews where settlements are not possible. Further information on appeals closed by way of informal settlement is included later in this report.

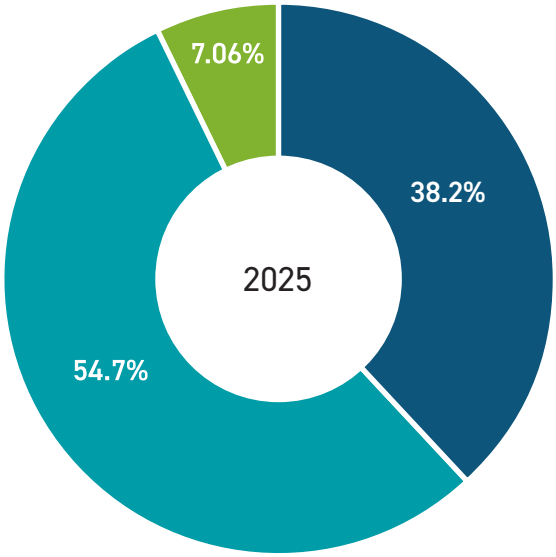
In cases where a public authority has not provided a requestor with a decision within the timeframe required by the AIE Regulations, a requestor can appeal to our Office on the basis of a "deemed refusal." In these cases, this Office's Support Unit will ask the public authority to provide a late decision to the appellant. We refer to this late decision as an "effective position" as it is given outside of the statutory timeframes. Once a public authority provides an "effective position", these cases are closed by the Support Unit. The proportion of cases closed by our Support Unit rose in 2025, with 15% of appeals closed. This represents an increase of around 4% compared to 2024, where 11.54% of cases closed were closed by our Support Unit.

Finally, 64% of cases were closed by formal decision in 2025.

Cases Completed by Decision

Outcome of cases completed by decision

- Affirmed 38.2%
- Annulled 54.7%
- Varied 7.06%



Where a review is concluded by way of a formal binding decision, we use the following categorisations:

- Decision affirmed: The OCEI agrees entirely with the public authority.
- Decision varied: The OCEI agrees with some but not all of the public authority's decision.
- Decision annulled: The OCEI does not agree with any part of the public authority's decision. In this instance the Commissioner will usually direct it to either undertake a fresh examination of the request or to release the information at issue.

In just over 38% of the cases completed by formal binding decision in 2025, the decision of the public authority was affirmed. In 7.06% of the decisions the decision of the public authority was varied and in 54.7% of cases the public authority's decision was annulled.

An annulment rate of 54.7% is objectively high. It indicates that out of all of the decisions of public authorities that the Commissioner made a formal finding on in 2025, he disagreed with the entirety of the decision of the public authority in question more than half the time.

However, in the context of the last number of years, an annulment rate of just under 55% represents a continuation of a welcome downward trend. The annulment rate in 2023 stood at just below 92% and fell in 2024 to just above 66%. This continuing fall in the proportion of annulments is welcome, although the fact that over half of all formal decisions comprise annulments indicates that public authorities, in some instances, continue to have work to do to improve the quality of their decision-making under the AIE Regulations.

Given the obvious progress made by public authorities over the last number of years, the OCEI fully expect to see a continued improvement in the annulment rate in 2026 and beyond.

Timeline for decision making

We are conscious of the long period of time it takes for appeals to the OCEI to be finalised and for a decision to be issued. In 2025, the majority of our appeals were over one-year-old when the case was finalised. We have undertaken a number of measures to reduce this timeframe, including increased emphasis on informal resolution of cases where possible, and, as mentioned earlier in the report, increasing the OCEI team with an additional six investigators joining us in 2025. Such measures should allow for a reduction in the time that it takes for each case to be allocated to an investigator. There are however numerous reasons other than resources why the investigation of AIE appeals can take a significant period of time. We have discussed some of these issues in further detail in Chapter 2 of this review.

Keeping Informed

Our team both attended and presented at a number of training events and conferences over the course of 2025. In July 2025, the Commissioner spoke at the Planning, Environment and Local Government Bar Association's annual conference, which brings together leading legal professionals and experts from Ireland and the UK to explore pressing issues in environmental and planning law. The Commissioner concluded the conference and provided an update on the role and recent work of his office in promoting transparency and access to environmental information.

Although we do not provide advice to public authorities on individual AIE requests or AIE training, our investigators also delivered an information session to staff of the Department of Agriculture, Food and the Marine during the year, primarily focusing on the role of OCEI Investigators.

In December 2025 we gave a presentation to the Department of Justice Freedom of Information (FOI) Network, which was attended by FOI Officers who also work as AIE Officers within their respective organisations. The presentation discussed the AIE regime in Ireland and had a particular focus on "search cases" and the application of article 7(5) and application of article 8(a)(i) and personal information. It also addressed a number of other issues, including: key differences between the AIE and FOI regimes; the definition of environmental information; exemptions public authorities may consider when processing AIE requests; and the application of the public interest balancing test in appeals.

We also attended and gave a presentation at the AIE Officer Network Conference in December 2025, which was organised and hosted by the Department of the Environment, Communications and Climate. The presentation concerned the role of the OCEI and included case studies on the application of the exemptions provided for in articles 7(5) and 9(2)(a) of the AIE Regulations. We were also able to address queries from attendees. Events like this provide a very useful opportunity to engage directly with AIE Officers outside of the context of individual reviews, and we are committed to continuing to take an active role in similar events in the future.

We always welcome the opportunity to engage with stakeholders, including AIE officers, and to provide insight into the issues encountered by our Office with a view to improving the processing of AIE requests.

Strategy and Corporate Governance

Corporate Services support for the OCEI and a number of other Statutory Offices, is provided by the Office of the Ombudsman. While the different Offices each carry out separate and distinct statutory functions, the Office functions as a single amalgamated agency in organisational terms. The Office is funded by one Vote and overseen by an Accounting Officer (Director General) who is supported by a Management Advisory Committee. In carrying out their work our staff embrace the traditional obligations of privacy and integrity in the performance of official duties, while at the same time protecting and preserving the statutory independence and functions of each of the constituent offices in which they work.

Full details in relation to our Corporate Governance can be accessed through the Strategy and Governance page on our website at this link.

This link provides access to updates in relation to our:

- Strategic Plan 2026-29.
- compliance with the requirements under the Irish Language Act.
- compliance with the requirements of the Protected Disclosures Act.
- compliance with the requirements under section 42 of the IHREC Act (the duty on public servants in relation to human rights).
- Corporate Governance Framework.
- Green Team (including our compliance with the Climate Action and Low Carbon Development Act) Climate Action Road Map.
- Membership of any international organisations.

Chapter 2:
Informal Settlement of appeals

Chapter 2: Informal Settlement of appeals

The Commissioner is a strong advocate of informal settlement of appeals. He wishes to remind Appellants to this Office and public authorities whose decisions are appealed to this Office that OCEI staff are available to discuss informal solutions to both existing and new appeals.

Informal settlement procedure

Resolving cases by way of an informal solution without the requirement for a formal decision to issue has a number of advantages for the appellant, public authorities and this Office. From an appellant's point of view, settlement or withdrawal can result in a speedier resolution of the matter and a refund of the relevant appeal fee. From the point of view of the public authority, granting access to some or all of the environmental information in question can avoid the need for any further time-consuming administration for their staff.

As a part of the appraisal for best resolution, OCEI Investigators consider whether there is a reasonable possibility of resolving a case without issuing a binding decision by endeavouring to reach a settlement. This can be achieved by a discussion with the relevant public authority and the appellant in suitable cases where, following an initial examination of the casefile, the Investigator identifies the appeal as a case where there may be an opportunity for an informal settlement.

All appeals are capable of informal settlement where the parties are willing to engage meaningfully. Typical examples of where settlements have been achieved include appeals which have taken some months from the time of acceptance to reach investigation stage. In these cases, an Investigator may contact the parties to establish whether, given the passage of time since the appeal was accepted, either parties position has changed in relation to the information in question.

On occasion a public authority will be in a position to release further relevant records which may satisfy the appellant's request. This has been achieved in the past where a different decision maker has an alternative interpretation of the AIE Regulations and deemed the information should be released. It may also be the case that given the time which has passed since the original request due to evolving or changed circumstances the public authority is in a position to release the records in question.

In the case of appeals regarding information which may have been refused due to ongoing various enforcement or similar proceedings, or the possibility of relevant proceedings being pursued, it may be the case that given the passage of time those proceedings have concluded, or a decision has been taken not to pursue, in which case a public authority may be in a position to release the information requested. Similarly, where information has been refused on the basis that it is incomplete, a public authority may be in a position to release some or all of the records when the appeal reaches investigation stage.

Informal settlement is not an exercise designed to reduce the rights of the appellant or the public authority in any way. Rather, it is a process which is aimed at narrowing the differences between the parties. In some cases, a point is reached where the parties clarify or modify their position in the course of the settlement procedure. In other cases, differences remain which can only be resolved by way of a binding decision of the Commissioner. Even if a binding decision is required, the settlement process can help to

ensure that the decision concentrates only on the essentials of the dispute between the parties.

It is vitally important for all parties to note that an opinion of an OCEI Investigator, or indeed a suggestion given by an OCEI Investigator during the course of discussions aimed at finding an informal solution to any appeal, is not binding on the Commissioner. The Commissioner will not have reviewed the particulars, or formed an opinion of an appeal at this point, and any opinions given are only that of the assigned Investigator following an initial examination of the circumstances of the appeal in question.

In cases where a particular Investigator has been heavily involved in attempts to settle an appeal informally, and those discussions prove unsuccessful, the appeal will generally be assigned to another OCEI Investigator for a de-novo investigation.

While informal settlement of appeals can reduce the administration for public authorities somewhat, and ensure appellants receive environmental information which they are entitled to access, clearly it would be more beneficial if appellants were granted access to this information at the earliest possible time following a request without the need for appeal to this Office, which ultimately delays access to information and potentially impacts on the appellants ability to participate in environmental decision-making easily and in an informed manner.

Informal settlement of appeals case study

Engagement between OCEI Investigators, public authority staff and appellants brought considerable success in 2025.

Following an OCEI review of all open appeals on hand of decisions of the Department of Agriculture, Food and the Marine which took place in Q1 2025, OCEI Investigators engaged with members of staff from the Department and appellants to examine open appeals with a view to securing informal settlement of appeals where possible, through release of relevant environmental information. Engagement also extended to managing the provision of submissions and main records to this Office to ensure more timely investigation of appeals not suitable for informal settlement. The work of these staff and cooperation of relevant appellants directly led to informal settlement of 32 appeals during 2025, with a further 33 formal decisions issued in a more timely manner.

A specific example of the benefits of this process is the informal settlement of several appeals relating to Geographical Information System (GIS) data. A recurring theme in a number of appeals we were investigating at the beginning of 2025 had been the increased demand for relevant information in GIS format, including shape files and relevant attribute data. The Department at first were of the opinion that this data was not to be released for a number of reasons depending on the nature of the appeal. Through discussions with the relevant staff members of the Department an agreement was reached which saw the Department make a significant amount of GIS data available through its open data portal which allowed for these appeals to be closed informally. Additionally the Department agreed to regular updates of this information which was most welcome, and not only allowed for closure of the relevant existing appeals, but also ensured that there would be no need for further similar appeals.

Another example of the benefits of this positive engagement is a change to the Forest Licence Viewer Terms and Conditions which ensures that the Terms and Conditions are consistent with the aims, purposes and objectives of the AIE regime, so that a person accessing information available from the viewer is free to use that information to participate in environmental decision-making.

The ongoing cooperation of staff within the Department is appreciated, as is the engagement of relevant appellants who regularly discussed potential informal settlements with OCEI Investigators.

Chapter 3:
Themes arising from appeals resolved in 2025

Chapter 3: Themes arising from appeals resolved in 2025

There are a number of themes which have emerged from appeals resolved by this Office during the course of the year. This section highlights appeals which we believe may be of particular interest. We include case studies, which are brief summaries of decisions issued, so that public authorities and requesters will have a better understanding of how the AIE appeals process functions. We also provide links to the full decisions, which are available on our website. The ongoing cooperation of both appellants and staff within the public bodies with OCEI Investigators during 2025 was most welcome.

The main themes we wish to highlight are:

- Article 7(5) "search" cases
- The continued demand for information linked to forestry
- Article 8(a)(i) of the AIE Regulations
- Article 9(1)(b) of the AIE Regulations
- Article 9(1)(c) of the AIE Regulations

Article 7(5) Search Cases

As in previous years, this Office continued to receive a high number of appeals relating to decisions issued by public authorities not to release environmental information on the grounds that the requested information was either not held by or for the public authority in question. This Office published 89 decisions in 2025, in which article 7(5) formed part of the appeal. Of these 89 decisions, 69 dealt solely with article 7(5) of the AIE Regulations.

Article 7(5) of the AIE Regulations allows a public authority to refuse a request if it does not hold the requested information. In order for a public authority to successfully rely on this provision, it must, amongst other things, provide evidence that it carried out adequate searches for the environmental information requested.

This Office's approach to dealing with cases where the public authority has refused a request under article 7(5) is to examine whether adequate steps have been taken to identify and locate relevant environmental information, having regard to the circumstances of the appeal. It is not ordinarily the role of this Office to search for environmental information directly.

When considering appeals where a public authority is relying on article 7(5) of the AIE Regulations, an OCEI Investigator will carry out a thorough review of the casefile to establish whether the public authority has taken adequate steps to locate records which may be within scope of the request. In assessing the adequacy of these steps, a standard of reasonableness is applied. It should be noted 2025 saw an improvement in the quality of search details provided to this Office by public authorities, which led in turn to an increase in the number of search cases where the Commissioner affirmed the decision of the public authority.

In particular, public authorities provided detailed context to the Investigator regarding the subject matter of the request, for example details of their internal procedures and the type of records which are typically generated in relation to the request.

The typical information an investigator would require from the public authority to assess whether reasonable searches were conducted includes the areas or units of the organisation which were searched, how these searches were carried out, either manually or electronically, and details of key words which have been used to carry out the search. Details of the individuals consulted in any searches are also typically required.

Further, guidelines, practices, procedures and arrangements in relation to the storage, filing, archiving, retention and destruction of the type of information requested, and a description of the searches carried out to cover the possibility of misfiled or misplaced records, are also typically required when assessing such cases.

The Regulations do not require absolute certainty as to the existence or location of records, as situations arise where records are lost or simply cannot be found, or, indeed, may have been deleted in line with the body's records management policies. It is also important to note that we do not generally expect public authorities to carry out indefinite searches for records. The test in article 7(5) is whether the public authority has taken all reasonable steps to locate the records sought.

Search cases continue to place a substantial burden on this Office's resources, requiring time and effort to be spent by Investigators to engage with public authorities. It would be beneficial for all parties involved if public authorities provided sufficient reasoning and details in their internal review decisions to allow requesters to assess whether or not further records relevant to their request may exist. The lack of detailed reasons being provided to appellants often results in appeals being made to this Office which could have been avoided.

Appellants can assist public authorities by submitting focused and specific requests and by engaging constructively with public authorities where clarification is sought. Where an appellant is already aware of records that may fall within the scope of a request, early disclosure of this information can assist in preventing unnecessary delay.

The following case study examines an appeal where the public authority relied on Article 7(5) of the Regulations.

Coillte justified in relying on Article 7(5) of the AIE Regulations

In this appeal the appellant requested; "all information related to engagement between Coillte and Midlands Motor Club in connection with a planned and subsequently cancelled motor rally to be held on parts of the Coillte estate, circa May 2022.

To include, but not restricted to, correspondence (all media), including email, text messages, WhatsApp messages, voice messages, all notes and letters (hand written or word processed), notes and minutes from any meetings.

To clarify, this request is to include information prior to, during and subsequent to the date of the event. I would like to request this information in electronic format."

Coillte refused the request under article 7(5) of the AIE Regulations on the basis that no relevant records existed.

The appellant appealed to this Office on the basis that the request related to a proposed event on Coillte lands which was advertised online and signs were erected on Coillte`s property to inform forest users of the dates of the event, therefore the appellant was not satisfied that no relevant records existed.

In her appeal submission, the appellant provided further detail in support of her belief that more relevant information in relation to her request should exist within the authority, including;

Coillte had failed to include members of their Recreation Team as Subject Matter Experts.

Coillte had indicated that records for Business Area Unit (BAU) 1 and BAU 2 were searched. The appellant contended that records for BAU 3 should also have been searched as this BAU contained an area which would have been included as a location for the proposed rally.

The appellant noted that subsequent to the event being cancelled the event organisers, the Midland Motor Club (MMC), posted a social media post which was complimentary to the "tireless work with our friends and colleagues in Coillte..." in relation to the efforts by both parties in organising the proposed event.

The appellant stated that there "has clearly been a significant degree of engagement between the two parties and I find it to be most concerning that Coillte have not carried out adequate searches for those records, have not maintained any records of that engagement or have destroyed the records of that engagement".

The appellant also pointed to a number of instances where she believed documents would normally be created for an event such as the rally in question, not limited to documents relating to insurance, logistical plans, risk assessments, contingency plans in the event of any incidents and details on access points for forest roads and/or Rights of Way.

During the course of the investigation in this appeal, this Office sought submissions from Coillte in relation to the searches and steps which it undertook to locate relevant environmental information. In response, Coillte made the following points;

"The Initial Decision maker consulted thoroughly with the Subject Matter Experts being Coillte personnel assigned to BAU1 and BAU 3 being the geographic area relevant to the Request and who would have been involved in the relevant process if a motor rally was to proceed.

The Subject Matter Experts identified were the Operations Managers in BAU 1 and BAU 3 and individual staff from BAU 3.

Searches were carried out on Sharepoint and on Microsoft Outlook with the assigned SMEs all searching their own outlook accounts.

The keywords used in the searches were 'Motor Rally, 'Motor Sport Ireland', 'LM09 Rally' and 'Rally Permit'.

The searches carried out did not produce results for environmental information relevant to the Request.

Furthermore, the Subject Matter Experts were in a position to confirm to the first instance decision maker that, from their knowledge of any such external stakeholder engagement relevant to their BAU, to include on any events proposed or confirmed and on the process for event organisation connected with the Coillte Estate, that any engagement on a rally the subject of the Request, which did not actually proceed and where a permit did not issue nor was a permit applied for by any party, was between Coillte at BAU level and the proposed event organisers through phone calls and on-site meetings only.

The SMEs have further confirmed that there were no notes or meetings taken of any such phone call or meeting.

In dealing with the Appeal, the decision maker reviewed the searches carried out and requested that the identified SMEs carry out a further search, without prejudice to the searches already carried out and the reasoning provided in the Initial Decision, in the same locations using keyword search term "Midland Motor Club". Arising out of that more recent search, it has been confirmed that no records relevant to the Request were identified.

Coillte also confirmed that incorrect detail was given in the internal review decision whereby the authority incorrectly stated that subject matter experts (SMEs) had been consulted in BAU 1 and BAU 2, the authority has confirmed that searches were in fact carried out in BAU 1 and BAU 3 which the authority confirms was the geographic location of the proposed motor rally".

The Commissioner outlined in his decision that he was satisfied that Coillte had taken reasonable steps to identify and locate information relevant to the request. The Commissioner noted that where a public authority refuses a request for records under article 7(5) of the AIE Regulations, the question is whether the body has taken all reasonable steps to ascertain the whereabouts of relevant records. The Regulations do not require absolute certainty as to the existence or location of records, as situations arise where records are lost or simply cannot be found, or, indeed, may have been destroyed in line with the body's records management policies.

The Commissioner also noted that this Office does not generally expect public authorities to carry out indefinite searches for records simply because an applicant asserts that more records should or might exist or rejects a public authorities' explanation as to why a record does not exist. What is required to rely on article 7(5) is that the public authority has taken all reasonable steps to locate the record sought.

The full decision is available here.

Continued demand for information linked to forestry

In keeping with previous years, a significant amount of the appeals we received during 2025 related to requests for various information broadly related to the forestry programme. Some of the most frequently requested information linked to forestry include; operational monitoring records, post license inspection information, active harvesting notifications, and harvest plan records. We acknowledge that the ongoing demand for significant volumes of forestry information from the relevant public authorities that are stakeholders in the area, including the Department of Agriculture, Food and the Marine, Coillte and the Forestry Appeals Committee, does present a significant administrative challenge.

It is noted that the vast majority of these forestry related appeals come from a small number of appellants. We would ask that requestors are mindful of the challenges facing public authorities when submitting AIE requests, and that they submit focused requests, and engage with public authorities in cases where it may be possible to refine the scope of their requests, where at all possible.

The OCEI understands from information received from the Department of Agriculture, Food and the Marine that it received 380 requests for information linked to the forestry programme during 2025, with a subsequent 252 internal review requests.

We also understand from information received from Coillte that it received 248 AIE requests, and 159 subsequent requests for internal review.

Given the continued demand for information related to forestry, we also again urge the relevant public authorities to consider all options which would allow for the proactive dissemination of frequently requested

material. All public authorities have a duty to proactively disseminate relevant information as set out in the Aarhus Convention and in the AIE Directive. Proactive dissemination without the need for request will significantly reduce the administrative burden placed on public authorities through AIE requests and subsequent appeals to this Office.

The Commissioner does acknowledge that both the Department of Agriculture, Food and the Marine and Coillte continue to make information available through the Forest Licence Viewer and the Coillte public web viewer which is welcome, however further improvement is needed in this area. We ask all public authorities to be mindful of the duty to proactively disseminate relevant information as set out in the Aarhus Convention and in the AIE Directive.

Article 8(a)(i) of the Regulations

The Commissioner issued 18 separate formal decisions during 2025 where the public authority had relied on Article 8(a)(i) of the AIE Regulations to refuse relevant records. This article provides that a public authority shall not make available environmental information where disclosure of the information would adversely affect the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law.

Decision makers should note that Article 8(a)(i) must be read alongside article 10 of the AIE Regulations. Article 10(3) requires a public authority to consider each request on an individual basis and weigh the public interest served by disclosure against the interest served by refusal, and article 10(4) provides that the grounds for refusal of a request shall be interpreted on a restrictive basis having regard to the public interest served by disclosure.

Article 10(5) of the AIE Regulations provides that nothing in articles 8 or 9 shall authorise a public authority not to make available environmental information which, although held with information to which article 8 or 9 relates, may be separated from such information.

When a public authority is relying on article 8(a)(i) to refuse information it must show that;

- the information at issue is personal information relating to a natural person, who has not consented to its disclosure;
- the personal information has an element of confidentiality,
- the confidentiality of that personal information is protected by law; and
- the disclosure of the information at issue would adversely affect that confidentiality.

When reviewing the application of 8(a)(i) to AIE requests, the OCEI has considered the relevance of engaging an analysis of the EU GDPR legislative regime, finding that it harmoniously interacts with AIE in the context of this provision. That is, in seeking to adjudicate on the applicability of 8(a)(i) to an AIE request, the Commissioner first considers the lawful basis of the processing of personal data set out in article 6 of the GDPR, finding in precedents thus far, that article 6(1)(f) is the most appropriate basis to consider in the case of AIE and accordingly reviewing the 'legitimate interest' test, to include the necessity of disclosure, as it applies to the request.

The public interest test, obligated by article 6(1) of GDPR and 10(3) of the AIE Regulations are considered as one in the same, that is, just one test is carried out, to fulfil the requirements of both regimes. The public interest test considers each request on an individual basis and weighs the public interest served by disclosure against the interest served by refusal, including consideration of the data rights of the data subjects, any

potential adverse impact of release and, the general interest served by release of environmental information in the context of the AIE regime and its objectives.

The following case study examines appeals where the public authority relied on Article 8(a)(i) of the Regulations.

Environmental Protection Agency not justified in withholding information under Article 8(a)(i) of the AIE Regulations

The Water Services (Amendment) Act 2012 introduced a system of mandatory registration, and also inspections, of Domestic Wastewater Treatment Systems (DWWTSs). The National Inspection Plan is prepared by the Environmental Protection Agency (EPA), and inspections are carried out by water services authorities (local authorities).

The appellant group, Right to Know CLG, sought access to a dataset of site locations where inspections had been carried out under the National Inspection Plan. The EPA part-granted access to the dataset. Certain columns were refused under article 8(a)(i) of the AIE Regulations.

The Commissioner was satisfied that the withheld data was 'personal information', that the requester had a 'legitimate interest' in receiving the data pursuant to the request, that its disclosure was necessary to meet that interest, and that the data subjects had not consented to disclosure. The Commissioner was also satisfied that the information at issue did not fall under any of the special categories of personal data meriting higher protection and he went on to consider the rights of the data subjects versus the public interest in the release of the information.

The EPA made arguments in relation to an adverse effect on individual homeowners, including an assertion that reputational damage could be caused to individual homeowners as a result of the public misinterpreting inspection results. The Commissioner was not persuaded by these arguments. The Commissioner was also not persuaded by arguments made by the EPA in relation to a broader adverse effect on the DWWTS registration and inspection regime. On the contrary, the Commissioner considered that active publication of the information may in fact encourage greater compliance with the statutory regime in place.

The Commissioner noted that the information sought by the appellant group was comparable to information that is required to be made publicly available in accordance with Section 70B of the Water Services Act (as amended). The decision commented that the legislative intent behind this provision was clearly to ensure transparency and public oversight of domestic wastewater treatment systems, which is crucial for environmental protection and public health.

The Commissioner concluded that in the circumstances of this case, the public interest in disclosure of the information outweighed the interest in preserving the privacy of relevant data subjects. On this basis, he found that the EPA was not justified in withholding the information under article 8(a)(i) and directed release of the information.

The full decision is available here.

Coillte not justified in withholding information under Articles 3(1) & 8(a)(i) of the AIE Regulations

This case concerned a request for information related to the identification and control of invasive species in a forest property managed by Coillte. The requestor had received records (emails) relating to the request, however the names, email and phone numbers of the Coillte staff who had authored the emails had been redacted, with Coillte citing articles

3(1) and 8(a)(i) as the reason for same. Coillte contended that information relating to staff was not environmental information, pursuant to article 3(1) and, notwithstanding this contention, that if the information was deemed by the Commissioner to be environmental information as defined by the AIE Regulations, that it would be protected by 8(a)(i) as it was personal in nature.

In considering the application of 3(1), specifically the applicability of 3(1)(c) the Commissioner found that the information relating to the AIE request could be considered to be a 'measure' which is '*affecting, likely to affect or designed to protect the environment*' pursuant to paragraph C of article 3(1) and, that the redacted information was information 'on' this measure. Accordingly, he found that in instances such as in this case, where a record is deemed to be environmental in nature, the contents of that record shall also be considered to be environmental information and should be released in full, save for their protection from any other exemption.

With respect to article 8(a)(i), the Commissioner, in finding that the redacted information was personal information as defined under the GDPR regime and that the appellant had a 'legitimate interest' in requesting it, undertook a public interest balancing test pursuant to article 6(1) of GDPR and 10(3) of the AIE Regulations. The Commissioner found that, with respect to the release of the staff names and email addresses, the public interest in disclosure outweighed the interest in refusal, noting the important general interest in the disclosure of environmental information to meet the purpose of the AIE Directive and, that those working in the civil and public sector should identify themselves, in the spirit of public sector values such as accessibility, transparency and integrity. The Commissioner cautioned that each case must be adjudicated on its own facts and there may be instances where a public authority evidences adverse impacts on individuals to the release of such information such to balance against the pro-release spirit of the AIE regime, but as the facts stood in this instance, it was not the case.

With regards to the redacted phone numbers, the Commissioner considered that, given the purpose of such phone numbers, there is limited or no public interest in releasing them in circumstances where other avenues of communication with respect to access to information are open to the public. Accordingly, he found that the public interest of disclosure does not outweigh the interest served by refusal. Accordingly, the Commissioner directed release of the redacted information relating to staff names and email addresses and affirmed Coillte's decision with respect to not releasing the phone numbers by virtue of the application of 8(a)(i) to staff phone numbers.

Full text of the case can be found here.

Galway City Council not justified in withholding information under Article 8(a)(i)

In this case the appellant made an AIE request for environmental information to the Council for an unredacted copy of the "Galway City Council Pedestrian Crossings Tuam Road, Salthill & Bearna Road Stage 1/2 Road Safety Audit" covering any other crossing sites and designs and including the names or initials of the Road Safety Audit team and the design team.

The Council issued its original decision in February 2024, part-granting the appellant's AIE request, informing the appellant that it was making redactions of personal information under article 8(a)(i) of the AIE Regulations and section 37(5) of the FOI Act.

The appellant requested an internal review of the decision, setting out what he perceived

to be the public interest in the requested information and also considering whether the information at issue was confidential information. He wrote;

"Specifically, I appeal the decision to withhold the names of the authors of the road safety audit report that was the subject of that AIE request. In my view, the content of the road safety audit report provides grounds for a formal complaint to Engineers Ireland regarding the apparent manner in which the authors conducted their report. In addition, the design approved by them is objectively in conflict with the safety recommendations of various road design guidance going back over 25 years."

In March 2024, the Council issued its internal review, affirming the original decision as follows;

"I have examined the records relevant to this request. I have decided to affirm the decision made by the initial decision-maker and provide the following regarding my decision: In considering your appeal to this office and the arguments you have raised; I must point out that I fundamentally disagree with your interpretation of certain elements of the AIE Regulations and the Freedom of Information Act 2014. In circumstances where a service is provided to a Public Authority, it is the 'Service Provider' contracted to carry out the task that is responsible for the provision of the service and not the individual employees of that service provider.

Furthermore, I would like to draw your attention to the AIE Regulations with regard to the Definition of "Environmental Information", as set out in Article 3(1). This is fundamental in that it determines what environmental information comes within the remit of the AIE Regulations. I do not believe that the individual employee names, employed by this service provider, contracted to carry out an Audit Report could possibly be considered as "environmental information". I affirm the original decision and draw your attention to the following right of appeal."

The appellant submitted an appeal to this Office in April 2024.

As the Council had part-refused the appellant's request on the basis of article 8(a)(i) of the AIE Regulations, withholding the names of the individuals on the audit team and design team within the report in question, in addition to the job titles and Transport Infrastructure Ireland (TII) Reference numbers of these individuals, the scope of the Commissioners review in this appeal was whether the Council was entitled to rely on article 8(a)(i) to withhold this information.

The argument put forward by the Council relating to whether the information in question in this appeal could be considered to be environmental information as defined under Article 3(1) the AIE Regulations was addressed by the Commissioner in the preliminary matters section of the relevant decision where he found that the information could be considered to be environmental information.

In its submission to this Office, the Council outlined how it believed the release of the names of the individuals, their job titles or their TII Reference number on the report would adversely affect those individuals. It said: "where an appellant continually refers the engineers to their regulatory body then there is an adverse affect on the engineers due to them having to continuously defend themselves before the regulatory body. It could also hinder their job prospects and restrict them in getting promotions. Refusing to release the names comes within the exemption requirements article 8(a)(i) as it is protecting the engineers from the

affects of the Appellant's attempts to use this information for completely different purposes that the information has been sought under AIE regulations."

The appellant, in his submission pointed to the fact that all registered civil engineers in Ireland are searchable on the Engineers Ireland website and that it is routine for unredacted Road Safety Audit reports to be published, the appellant also argued that there was a strong public interest in the information being released.

The Commissioner considered all relevant arguments from the parties in his decision, taking in to account that particular qualifications were required to complete relevant audits and that it was necessary to identify the authors in order to verify that they actually had the requisite qualifications, while also setting out in detail the approach to personal data under the AIE Regime with reference to the GDPR. The Commissioner ultimately annulled the decision of the Council in this appeal and directed release of the information sought.

The full decision of the Commissioner in this appeal is available here.

Article 9(1)(b) of the Regulations

During the course of our investigations during 2025 public authorities have, in a number of appeals, relied upon the exemption provided for under article 9(1)(b) of the AIE Regulations. This Article provides a discretionary ground for refusal of information by a public authority where disclosure of the information requested would adversely affect the course of justice (including criminal inquiries and disciplinary inquiries). This provision seeks to transpose Article 4(2)(c) of the AIE Directive, which in turn is based on Article 4(4)(c) of the Aarhus Convention. Article 4(2)(c) of the AIE Directive provides that Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.

Department of Agriculture, Food and the Marine directed to release weekly notifications provided by Coillte of Active Harvesting Sites in full to requester

In February 2022, the appellant sought access to weekly notifications of active harvesting sites provided by Coillte to the Department of Agriculture. Active harvesting sites are areas within a forest where timber is being extracted, either through thinning or clear-felling. The information is used by the Department to inform selection of sites for field inspection as part of its regulatory role. The Department's internal review decision withheld the information on the basis that release would adversely affect the course of justice (article 9(1)(b) of the AIE Regulations).

In July 2024, the Department updated its position and released a summary list of the relevant active harvesting sites to the appellant. Due to the passage of time, it was accepted by both the Department and Coillte (as a relevant third party) that the harvesting sites concerned could no longer be considered "active", and as such there was no basis to withhold the information.

However, in the circumstances of this case, the Commissioner deemed it appropriate to consider matters based on the sites being "active". In his view, this approach was in the interests of all parties and in keeping with the aims of the Aarhus regime, as it would likely always be the case in this type of appeal that such sites may no longer be active by the time an appeal reaches this Office and can be determined.

In addition, the Commissioner considered that the summary list released to the appellant did not fully satisfy the scope of the appellant's request. He considered that it was the actual notifications received by the Department from Coillte, not a summary list, which required a determination regarding release. The decision commented that what the Department had effectively done in this case was provide the appellant with some of the information requested, in a different form or manner to that which he requested. It noted that if the Department wished to treat this request in that way, it should have relied on article 7(3)(a)(ii) of the AIE Regulations , and it should have explained why access to the information sought, in the form for a summary list, could be considered reasonable. The Commissioner also outlined that reliance on article 7(3)(a) of the AIE Regulations , and the treatment of the request in this manner could only be considered reasonable if all of the withheld information was exempt under the AIE Regulations and therefore could be lawfully withheld from the appellant.

The Department confirmed to this Office that it was no longer relying on any exemptions to withhold the information sought by the requester. However, Coillte argued that information concerning active harvesting sites should not be released under the following articles of the AIE Regulations – article 8(a)(iii) (protection of the environment), article 9(1)(a) (public security), and article 9(1)(b) (the course justice).

In relation to article 8(a)(iii), Coillte argued that disclosure could hamper the Department in its inspection and enforcement activities, which could undermine the effective operation of the Forestry Act 2014. However, it did not demonstrate any direct link between the withheld information and the effectiveness of the inspection process. The Commissioner found that even if such a link could be demonstrated, it was not clear that the sort of disruption envisaged would adversely affect the environment for the purposes of article 8(a)(iii).

In relation to article 9(1)(a), Coillte argued that disclosure would result in incidents of unauthorised attendance on active sites and accordingly a risk to public security by way of risk to human life and health. However, having examined the withheld records and in considering information which can be accessed via the Department's Forest Licence Viewer (FLV) and Coillte public map viewer, and information generally publicly available in the form of site notices and on Coillte's website regarding live occurrences of harvesting works, the Commissioner was not satisfied that a reasonably foreseeable risk of an adverse impact on public security had been established such that article 9(1)(a) might be said to apply.

In relation to article 9(1)(b), Coillte further argued that disclosure would hamper the Department in carrying out its inspection and enforcement duties effectively. However, the Commissioner was not satisfied that Coillte has demonstrated sufficiently that release of the information would cause a reasonably foreseeable risk to the ability of the Department to fulfil its statutory role under the Forestry Act 2014. Moreover, the decision noted that the Department itself no longer considered that release of the information would have an adverse impact on its inspection process or pose a reasonably foreseeable risk to its ability to fulfil its statutory functions relating to the forestry sector.

On the above basis, the Commissioner found that none of the cited exemptions were engaged in relation to the information. In addition, he found that the Department's decision in this case; to provide the appellant with the information sought in a different form or manner; could not be justified under article 7(3)(a)(ii), and he directed release of the actual notifications concerned.

The full decision is available here.

Article 9(1)(c) of the Regulations

Requests for environmental information may be refused by public authorities in circumstances where its release could be detrimental to the commercial interests of an individual or company and the protection of the information has been provided for in national or Community law to protect a legitimate economic interest.

Reliance by public authorities on this article in order to redact or refuse environmental information, either alone or in tandem with other AIE exempting provisions, has been a common theme seen in appeals received by the OCEI in recent years, including in 2025.

The article provides a discretionary ground to public authorities to refuse to make available environmental information where disclosure would adversely affect "commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest". A number of elements are required in order to engage the exemption provided for in this article, as follows:

- The information sought must be commercial or industrial in nature.
- The confidentiality of the information must be provided for by law.
- The confidentiality must protect a legitimate economic interest.
- The confidentiality would be adversely affected by disclosure.

It is important that public authorities be able to demonstrate that each of the four elements has been satisfied in respect of any request for information before they proceed to refuse or part-refuse it under the article. For the provision to be applicable in any given situation, it must first be established that the information requested is commercial or industrial in nature. This element tends not to be difficult to demonstrate, particularly if the information originates in a commercial context for example, non-published financial information, a trade secret or details of an industrial process that is not in the public domain. The second element of the provision, that the confidentiality of the information must be provided for by law, will be addressed further below.

The third element requires that the confidentiality is protecting a legitimate economic interest of the creator and/or owner of the information at issue. Such an interest will usually be financial or economic in nature, arising from the inherent value of the information to its holder, for example, proprietary material from which arise financial benefits, trade, industrial or commercial data that inures to the benefit of the entity holding it. The fourth element that must be satisfied is that there be a foreseeable adverse impact on the economic interest if the information sought should be released. This factor, if established, will often demonstrate that a legitimate economic interest is, in fact, in play, as if it can be established that an adverse effect, economic or otherwise, would foreseeably ensue from release of the information, this will tend to demonstrate the existence of such an interest. An adverse effect could be demonstrated, for example, by showing that the information at issue would be of benefit to competitors if released, whose use of it would lead to a negative impact, financial or otherwise, on the owner of the information.

The confidentiality of the information must be provided for by law

In the experience of this Office, some public authorities, are providing insufficient or adequate reasoning in decision-making with respect to the second element of the provision, namely the requirement that the confidentiality of the information "be provided for in national or Community law". A law providing for the confidentiality of commercial and industrial information can arise from a number of sources, namely, European law and

national law consisting of the Constitution, statute and the common law.

The Freedom of Information Act 2014 (FOI Act) as a law to satisfy article 9(1)(c)

An issue that we have seen emerge in some appeals concerns public authorities which, while subject to the AIE Regulations, are not simultaneously public bodies for the purposes of the Freedom of Information (FOI) Act, or are so in respect of certain information but not all. This statute, by means of its provision on the protection of commercial sensitivity may, in appropriate cases, constitute a law to satisfy the second element of article 9(1)(c). However, as far as reliance on the FOI Act by public bodies that are not subject to its provisions is concerned, it is important to note that in 2023 the High Court delivered a judgment in the case of Commissioner for Environmental Information v Coillte and People Over Wind (*People Over Wind*) [2023] IEHC 227. This judgment provided answers to a number of questions which the Commissioner's predecessor had referred to the High Court in respect of the interaction between the FOI Act and the AIE Regulations.

One of those questions was precisely whether a public body that was not subject to the FOI Act, in that case Coillte, could rely on exemptions contained in the statute to refuse release of information under the AIE Regulations. Judge Hyland found that Coillte, as a body that is not subject to the FOI Act, could not rely on the provisions of the Act as a law providing for the confidentiality of the proceedings of public authorities identified in article 8(a)(iv) of the AIE Regulations as a reason to withhold environmental information, expressing quite clearly that "*the FOI Act does not apply to Coillte and it cannot assert an entitlement before the Commissioner to invoke exemptions under the Act as if it were a body subject to the Act*" (at paragraph 99).

Accordingly, in that case, Coillte could not rely on the FOI Act to refuse access to the records it had withheld from the appellant. While that case concerned reliance by Coillte on article 8(a)(iv) of the AIE Regulations and the judge refrained from pronouncing on a further question that had been referred to the court, namely, whether section 36 of the FOI Act, which addresses the release or otherwise of commercially sensitive information, was a protection of commercial and industrial confidentiality for the purpose of article 9(1)(c), the Commissioner is satisfied that, by an application of the reasoning in *People over Wind*, a public authority which is not subject to the FOI Act cannot rely on the statute as a law to provide for the confidentiality of commercial or industrial information held by or for it under article 9(1)(c) of the AIE Regulations.

The corollary of this is that the Commissioner is satisfied in principle that public authorities which are also subject to the FOI Act may in appropriate cases rely on section 36 of the FOI Act in order to protect the confidentiality of commercial and industrial information under the AIE Regulations. This is because the judgment in *People over Wind* found that the FOI Act exemptions protect the confidentiality of records that are considered exempt from release under that statute. This means that section 36 can be considered a provision of national law that, in appropriate cases, protects the commercial and industrial confidentiality of environmental information under article 9(1)(c) of the AIE Regulations. Such protection is subject, of course, to the balancing exercise of article 10(3) of the Regulations to weigh the public interest factors in non-release of information against the factors that favour refusal.

Department of Housing, Local Government and Heritage justified in withholding information under Article 9(1)(c)

This decision concerned a request made to the Department for information related to Bord na Móna's Enhanced Decommissioning Restoration and Rehabilitation Scheme (EDRRS), created to decommission, rehabilitate and restore its bog sites following the cessation of peat production.

The information requested consisted of financial information, a risk register and maps, all relating to the scheme, created and owned by Bord na Móna who was bound contractually to transfer it to the Department. All the financial information, parts of the risk register and certain maps were withheld by the Department, on the basis of either article 9(1)(c) alone or in combination with other exempting provisions.

While the Commissioner did not accept that release of the maps would lead to an adverse effect on the public authority's legitimate economic interests, he did acknowledge that release of the financial information and certain details in the risk register could foreseeably do so, *inter alia*, because it could put Bord na Móna at a commercial disadvantage vis-à-vis its competitors, would weaken its negotiating position with suppliers and jeopardised safety and security at certain named locations on the risk register. However, the question to be determined was whether the confidentiality of this information was protected by law such that article 9(1)(c) could be engaged in order to prevent its release.

Bord na Móna sought to rely on a number of national and supranational laws, including the equitable duty of confidence, the Irish Constitution, its own constitution, statute and European sources of law. While the decision analyses in detail a range of laws that can potentially be relied upon by public authorities, the Commissioner was satisfied that the equitable duty of confidence was most appropriate and accordingly went into some detail to explain its implications and applicability to the case. While the equitable duty of confidence is well-established in Irish law and requires satisfaction of three elements for a cause of action for *breach* of the duty, it was considered, nevertheless, that in the absence of a breach in any particular circumstance, the basis of the cause of action, namely, the underlying duty of confidentiality, the first of the three elements or the requirement that the information possess the necessary quality of confidence about it, can apply in respect of commercial or industrial information.

Having regard to Bord na Móna's commercial environment and the nature of the information contained in the financial records and in certain parts of the risk register, the Commissioner was satisfied that release of that information could put Bord na Móna at a commercial disadvantage, that its release would adversely affect its legitimate economic interests and that it was in fact protected from release by the equitable duty of confidence. Accordingly, as this basis in law protected the confidentiality of the information, the Department could demonstrate that this element of article 9(1)(c) was satisfied and rely on the provision to prevent release of the information at issue. The Commissioner considered that it was not consequently necessary to consider the applicability of the other bases in law that Bord na Móna had submitted for consideration.

The full decision is available here.

Chapter 4:
Litigation

Chapter 4: Litigation

New appeals in 2025

This Office received 6 statutory appeals in 2025. Two of these appeals were dealt with on consent and remitted back to this Office for a new decision.

In February 2025, this Office received four appeals against decisions from a number of public authorities refusing requests for information relating to the engagement of the public authority with external lawyers and the costs incurred in this engagement. The Commissioner decided that this information was environmental information and ordered that each public authority issue a new internal review decision either releasing the information or refusing it in reliance on an exemption. The decisions were as follows Dr. Fred Logue and ESB Networks DAC OCE-147505-B0B7M8, Dr. Fred Logue and Electricity Supply Board OCE-147504-Q5B3C8, Dr. Fred Logue and Coillte OCE-147437-C1W7K5, Dr Fred Logue and Forestry Appeals Committee OCE-147507-S3J9V2. ESB, ESB Networks, Coillte and the Forestry Appeals Committee appealed the respective decisions to the High Court on the basis of the categorisation of the information as environmental information and the matter is due to be heard in late 2026.

The next appeal was against the Commissioner's decision in Save Leitrim CLG and Coillte OCE-143263-P9B0N9, in which the Commissioner affirmed Coillte's decision to charge a fee of 15EUR for the supply of information in line with article 15(1) of the AIE Regulations. This case was heard by the High Court in October 2025, and Mr. Justice Humphreys issued his judgment on 28 November 2025, referring two questions to the Court of Justice of the European Union (CJEU) pursuant to article 267 TFEU.

The first question concerns whether a public authority can include any portion of its overhead costs – particularly staff time spent searching for, retrieving, and compiling information – when calculating a charge for providing a specific type of environmental information in response to an individual request. The second question concerns the principle of equivalence and whether EU law rules prevent a Member State from charging for staff time spent searching for, retrieving and compiling environmental information in response to an EU request, where the same type of charge would not be allowed for a similar request under national Freedom of Information law. The judge ordered that the substantive determination of the proceedings be adjourned pending the judgment of the CJEU. A link to the judgment is available here.

A judicial review was taken against a decision of the Commissioner's issued in December 2024 in People Over Wind and Coillte OCE-93414-J3Y7T8. This decision was to annul and remit for fresh decision an internal review decision of Coillte's. This Office directed Coillte to carry out a fresh internal review decision-making process in respect of the information at issue. The appellant's request related to information regarding Coillte's proposed windfarm at Cullenagh, County Laois. On 10 February 2026 Mr. Justice Humphreys in the High Court issued his judgment, referring two questions to the Court of Justice of the European Union (CJEU) pursuant to article 267 TFEU. The first question related to whether a reviewing authority is obligated to use its full powers to make a final decision itself, instead of remitting the case to the original public body – especially if sending it back would cause more delay. The second question related

to whether a number of additional factors has a bearing on a decision to remit a case to the original public authority. The judge ordered that the substantive determination of the proceedings be adjourned pending the judgment of the CJEU.

Finally, we received an appeal against the Commissioner's decision in Friends of the Irish Environment c/o FP Logue Solicitors and Department of the Taoiseach, OCE-116904-Y3L3S9. This decision varied the decision of the Department. The Commissioner annulled its decision that the four records at issue were not environmental information, but affirmed its decision under article 8(a)(iv) of the AIE Regulations to refuse access to certain information. With regards to other certain information at issue, the Commissioner directed release of the information on the basis that the Department's reliance on articles 8(a)(iv) and 9(2)(d) of the AIE Regulations was not justified. This appeal is due to be heard by the High Court in early 2027.

Existing appeals

There have been a number of updates on our existing appeals in 2025.

Coillte Cuideachta Ghniomhaiochta Ainmnithe v Commissioner for Environmental Information [2024] IEHC 28

As set out in last year's annual review, the High Court [2023 IEHC 640] referred a series of questions to the Court of Justice of European Union (the CJEU) in relation to an appeal of the Commissioner's decision in OCE-124853-T4T4P0. In May 2025 the Advocate General in the CJEU issued its opinion. In January 2026 the CJEU issued a judgment holding that the Directive does not require a requester to provide a name and address to public authority when making a request. The Directive also does not preclude national law from putting in place a practical arrangement whereby a requester can be required to provide a name and address. On Monday 9 February 2026, applying that judgment to the facts of the case, the High Court annulled the decision to the Commissioner in OCE-124853-T4T4P.

Raidió Teilifís Éireann v Commissioner for Environmental Information & Right to Know CLG [2024] IEHC 729

In this judgment issued on 20 December 2024, Mr. Justice Humphreys set out the history of RTÉ's appeal against the decision of the Commissioner finding that RTÉ was a public authority within the meaning of the AIE Regulations. The judge decided to refer a number of questions of law to the CJEU and the questions were finalised in early 2025. Link to this judgment is available here. We are awaiting a CJEU judgment.

Electricity Supply Board v Commissioner for Environmental Information, Right to Know CLG and Gwen Malone Stenography Services Unlimited Company [2024] IEHC 130

There has been no update since the last annual report in respect of this appeal. This judgment concerns an appeal of the Commissioner's decision in OCE-94897-N8Y8 which concerned a request by Right to Know CLG to ESB for a soft copy of a transcript of a hearing before a property arbitrator. In his decision, the Commissioner found that the transcript was, in its entirety, environmental information within the meaning of the AIE Regulations. The Commissioner further found that ESB was not entitled to rely on article 9(1)(d) in refusing the information sought, as

he determined that copyright did not apply to the transcript. Mr. Justice Heslin found that the Commissioner erred in law in finding that the transcript, in its entirety, is environmental information as the decision failed to provide adequate reasons for his conclusions that information about the arbitration procedure might contribute to the public's ability to participate in debate concerning future projects. He further found that the Commissioner erred in law by misapplying the test as to whether the transcript benefits from copyright, and that the Commissioner failed to give any or any adequate reasons for his decision to reverse his finding in his previous decision that article 9(1)(d) did apply to the transcript. This judgment was subsequently appealed to the Court of Appeal by the Commissioner. The case was heard in the Court of Appeal in November 2024 and we are currently awaiting a judgment. Link to this judgment is available here.

Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information